THE NATIONAL ARCHIVES
LITTERA SCRIPTA MANET
1934
OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 6 NUMBER 168

Washington, Thursday, August 28, 1941

The President

NATIONAL DEFENSE PIPE LINE—PLANTATION PIPE LINE SYSTEM

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS the act of Congress entitled "An act to facilitate the construction, extension, or completion of interstate petroleum pipe lines related to national defense, and to promote interstate commerce," approved July 30, 1941 (Public Law 197—77th Congress), vests in the President certain powers relating to the construction, extension, completion, operation, and maintenance of interstate pipe lines related to national defense:

NOW, THEREFORE, I, FRANKLIN D. ROOSEVELT, President of the United States of America, under and by virtue of the authority vested in me by sections 2 and 3 of said act of July 30, 1941, do hereby find and proclaim (1) that it is necessary for national defense purposes that there be constructed and completed a pipe line system for the transportation and distribution of petroleum and petroleum products moving in interstate commerce, the route for which is generally indicated on a map which is on file in the Office of the Petroleum Coordinator for National Defense, detailed survey maps of which shall be of record in the said office, commencing in the vicinity of Baton Rouge, Louisiana, and extending in a northeasterly direction through the States of Louisiana, Mississippi, Alabama, Georgia, and South Carolina, and into North Carolina to a point in the vicinity of Greensboro, North Carolina, with branch lines extending to Montgomery and Birmingham, Alabama, Columbus and Macon, Georgia, and Chattanooga and Knoxville, Tennessee, (2) that Plantation Pipe Line Company, a private corporation organized under the laws of the State of Delaware, has commenced the work necessary for the construction of such a pipe line system and represents that it is prepared to undertake the construction of and will complete said pipe line system, and (3) that it is necessary for the purposes of construction, completion, operation, and maintenance of said pipe line system that the Plantation Pipe Line Company have the right to acquire, by the exercise of the right of eminent domain as provided in the aforesaid act, along the route and between the points hereinbefore identified, (a) such parcels of land or any interests therein, not in excess of 100 acres in each separate parcel, for the location of its storage tanks, pumping stations, delivery facilities, and other facilities in connection therewith, and (b) easements and rights of way, not in excess of 100 feet in width, for the construction, completion, operation, maintenance and removal of the pipe lines, including right of access thereto over adjoining lands: *Provided*, That such right of eminent domain be exercised by the Plantation Pipe Line Company for the aforesaid purposes prior to June 30, 1943.

The pipe line hereinbefore identified shall be constructed, completed, operated, and maintained subject to such terms and conditions as the President may hereafter from time to time prescribe as necessary for national defense purposes.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 23rd day of August, in the year of our Lord nineteen hundred and forty-one, and of the Independence of the United States of America the one hundred and sixty-sixth.

[SEAL]

FRANKLIN D ROOSEVELT

By the President:

CORDELL HULL,
Secretary of State.

[No. 2505]

[F. R. Doc. 41-6433; Filed, August 26, 1941; 3:52 p. m.]

CONTENTS

(Continued on next page)

FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following legal holidays by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500), under regulations prescribed by the Administrative Committee, approved by the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.25 per month or $12.50 per year; single copies 10 cents each; payable in advance. Remit money order payable to the Superintendent of Documents directly to the Government Printing Office, Washington, D. C.

CONTENTS—Continued

NOTICES

CONTENTS—Continued

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

[ACP-122—Amendment 2]

CHAPTER VII—AGRICULTURAL ADJUSTMENT ADMINISTRATION

PART 716—PAYMENTS OF AMOUNTS DUE PERSONS UNDER THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT, AS AMENDED, AND STATUTES AUTHORIZING PARITY PAYMENTS, WHO HAVE DIED, DISAPPEARED, OR HAVE BEEN DECLARED INCOMPETENT

By virtue of the authority vested in the Secretary of Agriculture by section 385 of the Agricultural Adjustment Act of 1938 (7 U.S.C., 1935) as amended by section 7 of the act entitled "An Act to amend the Soil Conservation and Domestic Allotment Act, as amended, the Agricultural Adjustment Act of 1938, as amended, and for other purposes", approved July 2, 1940 (Public Law No. 716, 76th Congress; 54 Stat. 728), public notice is hereby given of the following amendment hereby made, prescribed, and published to the Regulations Pertaining to Payments of Amounts Due Persons Under the Soil Conservation and Domestic Allotment Act, as amended, and Statutes Authorizing Parity Payments, Who Have Died, Disappeared, or Have Been Declared Incompetent, issued August 16, 1940, which regulations, as so amended, shall be in force and effect until amended or superseded by regulations hereafter made under said provisions of law:

Section 716.1 is amended to read as follows:

§ 716.1 *Definitions.* "Person," when relating to one who dies, disappears, or becomes incompetent, prior to receiving payment, means a person who has filed an application for a payment pursuant to any statute authorizing parity payments, or who has filed an application for a payment pursuant to section 8 of the Soil Conservation and Domestic Allotment Act, as amended.

"Brother" or "sister," when relating to one who pursuant to the regulations in this part is eligible to apply for the payment which is due a person who dies, disappears, or becomes incompetent prior to the receipt of such payment, shall include brothers and sisters of the half blood, who shall be considered the same as brothers and sisters of the whole blood.

"Payment" means a payment pursuant to section 8 of the Soil Conservation and Domestic Allotment Act, as amended, or to any statute authorizing parity payments.

Done at Washington, D. C., this 26th day of August 1941. Witness my hand and the seal of the Department of Agriculture.

[SEAL] GROVER B. HILL,
Assistant Secretary of Agriculture.

[F. R. Doc. 41-6448; Filed, August 27, 1941; 11:27 a. m.]

CHAPTER VIII—SUGAR DIVISION OF THE AGRICULTURAL ADJUSTMENT ADMINISTRATION

PART 821—SUGAR QUOTAS

RESCISSION OF ORDER [1] ALLOTTING THE 1941 SUGAR QUOTA FOR THE MAINLAND CANE SUGAR AREA

Pursuant to the authority conferred upon the Secretary of Agriculture under the Sugar Act of 1937, as amended, and on the basis of information now before the Secretary of Agriculture, it is hereby found and determined that the allotment of the 1941 sugar quota for the mainland cane sugar area is no longer necessary to accomplish the purposes of the act, and the "Decision and Order of the Secretary of Agriculture Allotting the 1941 Sugar Quota for the Mainland Cane Sugar Area", issued May 19, 1941,[2] is hereby rescinded. (Sec. 205, 50 Stat. 906; 7 U.S.C. 1115; Sec. 504, 50 Stat. 915; 7 U.S.C. 1174)

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the District of Columbia, city

[1] §§ 821.41-821.43.
[2] 6 F.R. 2497.

of Washington, this 26th day of August 1941.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. R. Doc. 41-6451; Filed, August 27, 1941; 11:28 a. m.]

PART 821—SUGAR QUOTAS

RESCISSION OF ORDER[1] ALLOTTING THE 1941 SUGAR QUOTAS FOR PUERTO RICO

Pursuant to the authority conferred upon the Secretary of Agriculture under the Sugar Act of 1937, as amended, and on the basis of information now before the Secretary of Agriculture, it is hereby found and determined that the allotment of the 1941 sugar quotas for Puerto Rico is no longer necessary to accomplish the purposes of the act, and the "Decision and Order of the Secretary of Agriculture Allotting the 1941 Sugar Quotas for Puerto Rico," issued May 12, 1941,[2] is hereby rescinded. (Sec. 205, 50 Stat. 906; 7 U.S.C. 1115; Sec. 504, 50 Stat. 915; 7 U.S.C. 1174)

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the District of Columbia, city of Washington, this 26th day of August 1941.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. R. Doc. 41-6450; Filed, August 27, 1941; 11:27 a. m.]

[G.S.Q.R. Series 8, No. 1, Rev. 4]

PART 821—SUGAR QUOTAS

SUGAR CONSUMPTION REQUIREMENTS AND QUOTAS FOR THE CALENDAR YEAR 1941

Pursuant to the authority conferred upon the Secretary of Agriculture under the Sugar Act of 1937, as amended, the following regulations are hereby prescribed, which shall have the force and effect of law and shall remain in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture:

§ 821.221 *Consumption requirements for 1941.* It is hereby determined, pursuant to section 201 of the Sugar Act of 1937, as amended (hereinafter referred to as the "act"), that a quantity of 8,006,836 short tons of sugar, raw value, is required as a consumption determination in order to make available the amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1941. (Sec. 201, 50 Stat. 904; 7 U.S.C. 1111)

§ 821.222 *Quotas for domestic areas and proration of deficits therein*—(a) *Revised quotas.* There are hereby established, pursuant to section 202 of the said act, for domestic sugar-producing areas, for the calendar year 1941, the following quotas:

Area:	*Quotas in terms of short tons, raw value*
Domestic beet sugar	1,856,957
Mainland cane sugar	503,408
Hawaii	1,123,878
Puerto Rico	956,075
Virgin Islands	10,682

(b) *Deficit in quotas for the mainland cane sugar area and Hawaii.* It is hereby determined, pursuant to subsection (a) of section 204 of the said act, that, for the calendar year 1941, the mainland cane sugar area and Hawaii will be unable by the amounts of 58,408 and 130,356 short tons of sugar, raw value, respectively, to market the quotas established for those areas in paragraph (a) of this section.

(c) *Proration of deficits in quotas for the mainland cane sugar area and Hawaii.* An amount of sugar equal to the deficits determined in paragraph (b) of this section is hereby prorated, pursuant to subsection (a) of section 204 of the said act, as follows:

Area:	*Additional quotas in terms of short tons, raw value*
Domestic beet sugar	68,542
Puerto Rico	35,290
Virgin Islands	394
Cuba	84,538

(Secs. 202, 204, 50 Stat. 905; 7 U.S.C., Sup., 1112, 1114)

§ 821.223 *Other quotas*—(a) *Revised quotas.* There are hereby established, pursuant to section 202 of the said act, for foreign countries and the Commonwealth of the Philippine Islands, for the calendar year 1941, the following quotas:

Area:	*Quotas in terms of short tons, raw value*
Commonwealth of the Philippine Islands	1,233,875
Cuba	2,290,314
Foreign countries other than Cuba	31,647

(b) *Deficit in quota for Commonwealth of Philippine Islands.* It is hereby determined, pursuant to subsection (a) of section 204 of the said act, that, for the calendar year 1941, the Commonwealth of the Philippine Islands will be unable by an amount of 502,424,000 pounds of sugar, raw value, to market the quota established for that area in paragraph (a) of this section. (Sec. 202, 204, 50 Stat. 905; 7 U.S.C., Sup. 1112, 1114)

§ 821.224 *Proration of quota for foreign countries other than Cuba and Philippine deficit*—(a) *Revised prorations.* The quota for foreign countries other than Cuba is hereby prorated, pursuant to section 202 of the said act, among such countries, as follows:

Country:	*Prorations in pounds, raw value*
Argentina	18,509
Canada	716,370
China & Hongkong	365,818
Costa Rica	26,152
Dominican Republic	8,466,955
Dutch East Indies	268,394
Guatemala	425,224
Haiti, Republic of	1,170,171
Honduras	4,358,324
Mexico	7,658,661
Nicaragua	12,977,587
Peru	14,111,549
Salvador	10,422,368
United Kingdom	445,241
Venezuela	368,215
Other countries	994,462
Subtotal	62,794,000
Unallotted reserve	500,000
Total	63,294,000

(b) *Additional prorations.* An amount of sugar equal to the deficit determined in paragraph (b) of § 821.223 hereof is hereby prorated, pursuant to subsection (a) of section 204 of the said act, to foreign countries other than Cuba, as follows:

Country:	*Additional prorations in pounds, raw value*
Argentina	146,101
Canada	5,654,886
China & Hongkong	2,887,693
Costa Rica	206,441
Dominican Republic	66,836,487
Dutch East Indies	2,118,646
Guatemala	3,356,635
Haiti, Republic of	9,237,102
Honduras	34,403,760
Mexico	60,455,974
Nicaragua	102,442,534
Peru	111,393,814
Salvador	82,272,137
United Kingdom	3,514,648
Venezuela	2,906,617
Other countries	7,850,087
Subtotal	495,683,562
Unallotted reserve	6,740,438
Total	502,424,000

(Sec. 202, 204, 50 Stat. 905; 7 U.S.C. 1112, 1114)

§ 821.225 *Direct-consumption portion of quotas*—(a) *Domestic areas.* The quotas established in § 821.222 hereof for the following listed areas may be filled by direct-consumption sugar not in excess of the following amount for each such area:

Area	*Amount of direct-consumption sugar in terms of short tons, raw value*
Hawaii	29,616
Puerto Rico	126,033
Virgin Islands	0

(b) *Other areas.* The quotas established in §§ 821.222 and 821.223 hereof for the following listed areas may be filled by direct-consumption sugar not in excess of the following amount for each such area:

Area:	*Amount of direct-consumption sugar in terms of short tons, raw value*
Commonwealth of Philippine Islands	80,214
Cuba	375,000

(Sec. 207, 50 Stat. 907; 7 U.S.C. 1117)

§ 821.226 *Liquid sugar quotas.* There are hereby established, pursuant to section 208 of the said act, for foreign countries, for the calendar year 1941, quotas for liquid sugar as follows:

Country:	*In terms of wine gallons of 72% total sugar content*
Cuba	7,970,558
Dominican Republic	830,894
Other foreign countries	0

(Sec. 208, 50 Stat. 908; 7 U.S.C. 1118)

---

[1] §§ 821.36-821.40.
[2] 6 F.R. 2410.

§ 821.227. *Restrictions on marketing and shipment.* (a) For the calendar year 1941, all persons are hereby forbidden, pursuant to section 209 of the said act, from bringing or importing into the continental United States from the Territory of Hawaii, Puerto Rico, the Virgin Islands, the Commonwealth of the Philippine Islands, or any foreign country, any sugar or liquid sugar after the quota for such area, or the proration of any such quota, has been filled.

(b) For the calendar year 1941, all persons are hereby forbidden, pursuant to section 209 of the said act, from shipping, transporting, or marketing in interstate commerce, or in competition with sugar or liquid sugar shipped, transported, or marketed in interstate or foreign commerce, any sugar or liquid sugar produced from sugar beets or sugarcane grown in either the domestic beet sugar area or the mainland cane sugar area after the quota for such area has been filled. (Sec. 209, 504, 50 Stat. 908, 915; 7 U.S.C., Sup., 1119, 1174)

§ 821.228 *Inapplicability of quota regulations.* The regulations in this part shall not apply to (a) the first 10 tons, raw value, of sugar or liquid sugar imported from any foreign country, other than Cuba; (b) the first 10 tons, raw value, of sugar or liquid sugar imported from any foreign country, other than Cuba, for religious, sacramental, educational, or experimental purposes; (c) liquid sugar imported from any foreign country, other than Cuba, in individual sealed containers not in excess of 1 1/10 gallons each; or (d) any sugar or liquid sugar imported, brought into, or produced or manufactured in, the United States for the distillation of alcohol, or for livestock feed, or for the production of livestock feed. (Sec. 212, 50 Stat. 909; 7 U.S.C. 1122)

§ 821.229 *Rescission of prior regulations.* These regulations (§§ 821.221-821.228) shall supersede General Sugar Quota Regulations, Series 8, No. 1, Rev. 3.

In testimony whereof, I have hereunto set my hand and caused the official seal of the Department of Agriculture to be affixed in the District of Columbia, city of Washington, this 26th day of August 1941.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. R. Doc. 41-6452; Filed, August 27, 1941; 11:27 a. m.]

CHAPTER IX—SURPLUS MARKETING ADMINISTRATION

[Order No. 20 [1]]

PART 920—MILK IN LA PORTE COUNTY, INDIANA, MARKETING AREA

ORDER, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE LA PORTE COUNTY, INDIANA, MARKETING AREA [2]

Sec.

Harry L. Brown, Acting Secretary of Agriculture of the United States of America, pursuant to the powers conferred upon the Secretary by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, issued, effective August 3, 1939, Order No. 20, as amended, regulating the handling of milk in the La Porte County, Indiana, marketing area.

H. A. Wallace, Secretary of Agriculture, tentatively approved, on June 30, 1939, a marketing agreement, as amended, regulating the handling of milk in the La Porte County, Indiana, marketing area.

There being reason to believe that the execution of an amendment to the tentatively approved marketing agreement, as amended, and to the order, as amended, regulating the handling of milk in the La Porte County, Indiana, marketing area would tend to effectuate the declared policy of said act, notice was given, on the 15th day of May 1941,[1] of a public hearing which was held in La Porte, Indiana, on the 21st day of May 1941, on a proposal to amend said marketing agreement, as amended, and said order, as amended, and at said time and place all interested parties were afforded an opportunity to be heard on the proposal to amend said marketing agreement, as amended, and said order, as amended.

After such hearing and after the tentative approval on the 23d day of July 1941, of a marketing agreement, as amended, regulating the handling of milk in the La Porte County, Indiana, marketing area, handlers of more than fifty (50) percent of the volume of milk covered by this order, as amended, which is marketed within the La Porte County, Indiana, marketing area, refused or failed to sign such tentatively approved marketing agreement, as amended, relating to milk.

The provisions of section 8c (9) of said act have been complied with.

The provision of the order providing for the payment to all producers whose milk is received by the same handler of uniform prices for all milk received from such producers by such handler is approved or favored by at least three-fourths of the producers who, during the month of April 1941, said month having been determined to be a representative period, were engaged in the production for market of milk covered in such order, as amended, said approval being separate and apart from the approval of producers required by section 8c (9) of said act.

It is hereby found, upon the evidence introduced at the above-mentioned hearing, said findings being in addition to the findings made upon the evidence introduced at the original hearing on said order and at hearings on amendments to said order, and in addition to the other findings made prior to or at the time of the original issuance of said order and of amendments to said order (which findings are hereby ratified and affirmed, save only as such findings are in conflict with the findings hereinafter set forth).

§ 920.0 *Findings.* (a) That the prices calculated to give milk handled in the marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to section 2 and section 8e of the act are not reasonable in view of the available supplies of feeds, the prices of feeds, and other economic conditions which affect the supply of and demand for such milk, and that the minimum prices set forth in this order, as amended, are such prices as will reflect such factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(b) That the order, as amended, regulates the handling of milk in the same manner as, and is applicable only to handlers specified in, the tentatively approved marketing agreement, as amended, upon which hearings have been held; and

(c) That the issuance of the order, as amended, and all of its terms and conditions will tend to effectuate the declared policy of the act.

Pursuant to the powers conferred upon the Secretary by Public Act. No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, it is hereby ordered that such handling of milk in the La Porte County, Indiana, marketing area, as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce, shall, from the effective date hereof, be in compliance with the following terms and conditions.*

*§§ 920.0 to 920.10, inclusive, issued under the authority contained in 48 Stat. 31, 49 Stat. 750, 50 Stat. 246; 7 U.S.C. 601, and Sup.

§ 920.1 *Definitions.* The following terms shall have the following meanings:

(a) The term "act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

(b) The term "Secretary" means the Secretary of Agriculture of the United States.

(c) The term "La Porte County, Indiana, marketing area," hereinafter called the "marketing area," means all of the territory within the boundaries of La Porte County, Indiana.

(d) The term "person" means any individual, partnership, corporation, association, or any other business unit.

[1] 4 F.R. 3481.

[2] 6 F.R. 2471

(e) The term "producer" means any person, irrespective of whether such person is also a handler, who produces milk which is received at a plant from which milk is disposed of in the marketing area.

(f) The term "handler" means any person, irrespective of whether such person is also a producer, who purchases or receives milk from producers, associations of producers, or other handlers, all, or a portion, of which milk is disposed of as milk in the marketing area, and who, on his own behalf or on behalf of others, engages in such handling of milk as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce in milk and its products.

(g) The term "market administrator" means the person designated pursuant to § 920.2 as the agency for the administration hereof.

(h) The term "delivery period" means the current marketing period from the first to, and including, the last day of each month.

(i) The term "base" means the quantity of milk calculated for each producer pursuant to § 920.7 (c).*

§ 920.2 *Market administrator*—(a) *Designation.* The agency for the administration hereof shall be a market administrator, who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall have power:

(1) To administer the terms and provisions hereof; and

(2) To receive, investigate, and report to the Secretary complaints of violations of the terms and provisions hereof.

(c) *Duties.* The market administrator, in addition to the duties hereinafter described, shall:

(1) Keep such books and records as will clearly reflect the transactions provided for herein and shall surrender the same to his successor or to such other person as the Secretary may designate.

(2) Submit his books and records to examination by the Secretary at any and all times;

(3) Furnish such information and verified reports as the Secretary may request;

(4) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary;

(5) Publicly disclose to handlers and to producers, unless otherwise directed by the Secretary, the name of any person who, within 15 days after the date upon which he is required to perform such acts, has not (i) made reports pursuant to § 920.5 or (ii) made payments pursuant to § 920.8;

(6) Employ and fix the compensation of such persons as may be necessary to enable him to administer the terms and provisions hereof;

(7) Obtain a bond with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator; and

(8) Promptly verify the information contained in the reports submitted by handlers.*

§ 920.3 *Classification of milk*—(a) *Use classification.* Milk received by each handler, including milk produced by him, if any, shall be classified by the market administrator, as follows:

(1) Class I milk shall be all milk, regardless of butterfat content, disposed of in the form of milk and milk drinks, whether plain or flavored, and all milk not specifically accounted for as Class II milk, Class III milk, and Class IV milk.

(2) Class II milk shall be all milk used to produce cream (for consumption as cream), creamed buttermilk, and creamed cottage cheese.

(3) Class III milk shall be all milk specifically accounted for as used to produce a milk product other than those specified in Class II milk and Class IV milk.

(4) Class IV milk shall be all milk specifically accounted for (i) as being used to produce butter, and (ii) as actual plant shrinkage but not to exceed 3 percent of the total receipts of milk from producers.

(b) *Interhandler and nonhandler sales.* Milk disposed of by a handler to another handler, or to a person not a handler, but who distributes milk or manufactures milk products, shall be considered to be Class I milk. In the event that such selling handler on or before the date fixed for filing reports pursuant to § 920.5 furnishes proof satisfactory to the market administrator that such milk has been disposed of by such purchaser other than as Class I milk, then such milk shall be classified in accordance with such proof.

(c) *Computation of butterfat in each class.* For each delivery period, the market administrator shall compute for each handler the butterfat in each class, as set forth in paragraph (a) of this section, as follows:

(1) Determine the pounds of butterfat received as follows: (i) multiply the weight of the milk received from producers by its average butterfat test; (ii) multiply the weight of the milk produced by him, if any, by its average butterfat test; (iii) multiply the weight of the milk received from handlers, if any, by its average butterfat test; and (iv) add together the resulting amounts.

(2) Determine the pounds of butterfat in Class I milk as follows: (i) convert to quarts the quantity of milk disposed of in the form of milk and milk drinks, whether plain or flavored, and multiply by 2.15; (ii) multiply the result by the average butterfat test of such milk; and (iii) if the quantity of butterfat so computed when added to the pounds of butterfat in Class II milk, Class III milk, and Class IV milk, computed pursuant to subparagraphs (3), (4), and (5) of this paragraph, is less than the pounds of butterfat received, computed in accordance with subparagraph (1) of this paragraph, an amount equal to the difference shall be added to the quantity of butterfat determined pursuant to (ii) of this subparagraph.

(3) Determine the pounds of butterfat in Class II milk as follows: (i) multiply the actual weight of each of the several products of Class II milk by its average butterfat test; and (ii) add together the resulting amounts.

(4) Determine the pounds of butterfat in Class III milk as follows: (i) multiply the actual weight of each of the several products of Class III milk by its average butterfat test; and (ii) add together the resulting amounts.

(5) Determine the pounds of butterfat in Class IV milk as follows: (i) multiply the actual weight of the product of Class IV milk by its average butterfat test; (ii) subtract the pounds of butterfat in Class I milk, Class II milk, and Class III milk, computed pursuant to (ii) of subparagraph (2) and pursuant to subparagraphs (3) and (4) of this paragraph, and the pounds of butterfat computed pursuant to (i) of this subparagraph, from the pounds of butterfat computed pursuant to subparagraph (1) of this paragraph, which resulting quantity shall be allowed as plant shrinkage for the purposes of this subparagraph (but in no event shall such plant shrinkage allowance exceed 3 percent of the total receipts of butterfat from producers by the handler); and (iii) add together the resulting amounts.

(6) Determine the classification of the butterfat received from producers as follows:

(i) Subtract from the pounds of butterfat in each class the total pounds of butterfat which were received from other handlers and used in such class.

(ii) In the case of a handler who also distributes milk of his own production, subtract from the pounds of butterfat in each class a further amount which shall be computed as follows: Divide the pounds of butterfat in said class by the pounds of butterfat in all classes and multiply by the pounds of butterfat produced by him.

(d) *Computation of milk in each class.* For each delivery period, the market administrator shall compute for each handler the hundredweight of 3.8 percent butterfat content equivalent of milk in each class, which was received from producers and to which the prices set forth in § 920.4 apply, as follows:

(1) Divide the pounds of butterfat computed for each class in accordance with paragraph (c) (6) of this section by 3.8.*

§ 920.4 *Minimum prices*—(a) *Class prices prior to August 1, 1941.* Each handler shall pay producers, at the time

and in the manner set forth in § 920.8, for the 3.8 percent butterfat content equivalent of milk received at the handler's plant, not less than the following prices:

(1) Class I milk—$2.10 per hundredweight: *Provided,* That with respect to Class I milk disposed of by such handler (i) to persons or families receiving relief from recognized relief agencies, or (ii) under a program approved by the Secretary for the sale or disposition of milk to low-income consumers, including persons on relief, the price shall be $1.80 per hundredweight.

(2) Class II milk—$1.80 per hundredweight.

(3) Class III milk—The price per hundredweight resulting from the following computation by the market administrator: Multiply by 3.8 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and add 30 percent thereof.

(4) Class IV milk—The price per hundredweight resulting from the following computation by the market administrator: Multiply by 3.8 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and add 10 percent thereof.

(b) *Class prices subsequent to July 31, 1941.* Each handler shall pay producers, at the time and in the manner set forth in § 920.8, for the 3.8 percent butterfat content equivalent of milk received at the handler's plant, not less than the following prices:

(1) Class I milk—$2.35 per hundredweight: *Provided,* That with respect to Class I milk disposed of by such handler (i) to persons or families receiving relief from recognized relief agencies, or (ii) under a program approved by the Secretary for the sale or disposition of milk to low-income consumers, including persons on relief, the price shall be such price less 30 cents.

(2) Class II milk—$2.05 per hundredweight.

(3) Class III milk—The price per hundredweight resulting from the following computation by the market administrator: Multiply by 3.8 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and add 30 percent thereof.

(4) Class IV milk—The price per hundredweight resulting from the following computation by the market administrator: Multiply by 3.8 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and add 10 percent thereof.*

§ 920.5 *Reports of handlers*—(a) *Periodic reports.* On or before the 5th day after the end of each delivery period each handler, with respect to milk or cream which was, during such delivery period, received from producers, received from handlers, or produced by such handler, shall report to the market administrator, in the detail and on forms prescribed by the market administrator, as follows:

(1) The receipts at each plant from producers who are not handlers and the quantity of such receipts which represents the total of all milk received from producers in excess of their respective bases;

(2) The receipts at each plant from any other handler, including any handler who is also a producer;

(3) The quantity, if any, produced by such handler; and

(4) The respective quantities of milk which were disposed of for the purpose of classification pursuant to § 920.3.

(b) *Reports as to producers.* Each handler shall report to the market administrator:

(1) Within 10 days after the market administrator's request, with respect to any producer for whom such information is not in the files of the market administrator, and with respect to a period or periods of time designated by the market administrator, (i) the name and address, (ii) the total pounds of milk received, (iii) the average butterfat test of milk received, and (iv) the number of days upon which milk was received; and

(2) As soon as possible after first receiving milk from any producer, (i) the name and address of such producer, (ii) the date upon which such milk was first received, and (iii) the plant at which such milk was received.

(c) *Reports of payments to producers.* Each handler shall submit to the market administrator on or before the 20th day after the end of each delivery period his producer pay roll for such delivery period which shall show for each producer (i) the net amount of such producer's payment with the prices, deductions, and charges involved, (ii) the total delivery of milk with the average butterfat test thereof, and (iii) the portion of such delivery which was in excess of the base of such producer.

(d) *Verification of reports.* Each handler shall permit the market administrator or his agent, during the usual hours of business, to (i) verify the information contained in reports submitted in accordance with this section, and (ii) weigh milk received from each producer and sample and test milk for butterfat.

§ 920.6 *Handlers who are also producers.* (a) With respect to each handler who is also a producer:

(1) The market administrator, subject to the conditions set forth in subparagraph (2) of this paragraph, shall exclude from the computations made pursuant to § 920.7 (a), the quantity of milk produced by a handler which is disposed of by such handler: *Provided,* That where any such handler has received milk from other producers the value of the milk so received shall be computed under § 920.7 (a) as follows: The quantity of such milk shall be ratably apportioned among such handler's total Class I, Class II, Class III, and Class IV milk (after excluding the receipts, if any, from other handlers) and multiplied by the Class I, Class II, Class III, and Class IV prices, respectively.

(2) The market administrator, upon prior written notice from such handler of the exercise thereof, shall grant the option of having all milk produced by such handler included in the computations made pursuant to § 920.7 (a), in lieu of the provisions of subparagraph (1) of this paragraph.

(3) The market administrator, in computing the value of milk for any handler pursuant to § 920.7, shall consider as Class IV milk any milk or cream disposed of in bulk by any such handler, who has not exercised the option set forth in subparagraph (2) of this paragraph, to another handler operating a bottling or a processing plant. If such receiving handler disposes of such milk or cream other than as Class IV milk, the market administrator, with respect to the total value computed for such receiving handler pursuant to § 920.7 (a), shall add the difference between (i) the value of such milk or cream at the Class IV price and (ii) the value according to its actual use.*

§ 920.7 *Determination of uniform prices to producers*—(a) *Computation of the value of milk for each handler.* For each delivery period the market administrator shall compute, subject to the provisions of § 920.6, the value of milk disposed of by each handler, which was not received from other handlers, as follows:

(1) Multiply by the Class I price the hundredweight of Class I milk computed pursuant to § 920.3 (d);

(2) Multiply by the Class II price the hundredweight of Class II milk computed pursuant to § 920.3 (d);

(3) Multiply by the Class III price the hundredweight of Class III milk computed pursuant to § 920.3 (d);

(4) Multiply by the Class IV price the hundredweight of Class IV milk computed pursuant to § 920.3 (d);

(5) Combine into one total the hundredweight of milk in each class computed pursuant to § 920.3 (d); and

(6) Combine into one total the values of the milk computed pursuant to subparagraphs (1), (2), (3), and (4) of this paragraph: *Provided,* That if milk, including skimmed milk, is disposed of by a handler to another handler, and if such

selling handler has not filed reports pursuant to § 920.5 (a) and made the payments required by § 920.8, the market administrator, in computing the value of milk for the receiving handler, shall multiply the quantity of 3.8 percent butterfat content equivalent of milk reported by the receiving handler as received from such selling handler and classified as Class I milk, by the difference between the Class I and Class IV prices, and add the resulting sum to the value of milk otherwise computed pursuant to this paragraph.

(b) *Computation and announcement of uniform prices.* (1) The market administrator shall compute for each handler the uniform price per hundredweight of milk received by such handler during each delivery period, except the delivery periods of June, July, August, and September, as follows:

(i) Subtract from the total value of milk computed for such handler pursuant to paragraph (a) of this section, for all milk received from a producer who did not regularly sell or distribute milk in the marketing area during a period of 30 days next preceding November 13, 1937, an amount computed by multiplying by the Class IV price the hundredweight of milk received from such producer. Such computation shall be made for all milk received from each such producer during the period beginning with his first regular delivery of milk and continuing until the end of two full calendar months following the date of such first delivery of milk;

(ii) If the hundredweight of milk computed pursuant to subparagraph (5) of paragraph (a) of this section is less than the hundredweight of milk received from producers, add an amount computed by multiplying such difference by an amount equal to 3.8 multiplied by the butterfat differential set forth in § 920.8 (c);

(iii) If the hundredweight of milk computed pursuant to subparagraph (5) of paragraph (a) of this section is greater than the hundredweight of milk received from producers, subtract an amount computed by multiplying such difference by an amount equal to 3.8 multiplied by the butterfat differential set forth in §920.8 (c);

(iv) If the Class I milk and the Class II milk of such handler is greater than the base milk received by him from producers, subtract a sum equal to the base milk times the Class I price;

(v) If the Class I milk and the Class II milk of such handler is less than the base milk received by him from producers, subtract a sum equal to the excess milk times the Class IV price; and

(vi) Divide the remaining sum of money by the excess milk if subdivision (iv) of this subparagraph be true, or by the base milk if subdivision (v) of this subparagraph be true, to secure the blended price for excess milk or for base milk, as the case may be.

(2) The market administrator shall compute for each handler the uniform price per hundredweight of milk received by such handler during each June, July, August, and September delivery period, as follows:

(i) Subtract from the total value of milk computed for such handler pursuant to paragraph (a) of this section, for all milk received from a producer who did not regularly sell or distribute milk in the marketing area during a period of 30 days next preceding November 13, 1937, an amount computed by multiplying by the Class IV price the hundredweight of milk received from such producer. Such computation shall be made for all milk received from each such producer during the period beginning with his first regular delivery of milk and continuing until the end of two full calendar months following the date of such first delivery of milk;

(ii) If the hundredweight of milk computed pursuant to subparagraph (5) of paragraph (a) of this section is less than the hundredweight of milk received from producers, add an amount computed by multiplying such difference by an amount equal to 3.8 multiplied by the butterfat differential set forth in § 920.8 (c);

(iii) If the hundredweight of milk computed pursuant to subparagraph (5) of paragraph (a) of this section is greater than the hundredweight of milk received from producers, subtract an amount computed by multiplying such difference by an amount equal to 3.8 multiplied by the butterfat differential set forth in § 920.8 (c); and

(iv) Divide by the total quantity of milk received from producers by such handler other than the milk represented by the amount subtracted pursuant to subdivision (i) of this subparagraph.

(3) On or before the 10th day after the end of each delivery period the market administrator shall notify each handler and shall make public announcement of the uniform price computed for such handler pursuant to this section, of the Class IV price, and of the butterfat differential determined pursuant to § 920.8 (c).

(c) *Base rating.* During each delivery period, except the delivery periods of June, July, August, and September, the base of each producer shall be a quantity of milk to be calculated by the market administrator in the following manner: Multiply the rating, if any, effective pursuant to paragraph (d) of this section, by the number of days on which milk was received from such producer during such delivery period. Milk received from a producer not in excess of his base shall be designated as "base milk" and that received in excess of his base shall be designated as "excess milk."

(d) *Determination for base rating.* For the purpose of calculating, pursuant to paragraph (c) of this section, the bases of producers, the market administrator shall determine a rating, with respect to milk received in bulk from each producer by handlers, as follows:

(1) Effective for the remainder of the calendar year 1937 the rating of each producer shall be the daily base, if any, of each such producer which is on file July 15, 1937, with the administrator of the order for the marketing area, issued by the Milk Control Board of the State of Indiana;

(2) Effective for each of the first three delivery periods following November 13, 1937, during which milk is received from any producer for whom the reports of handlers do not supply information necessary for a determination of a rating pursuant to subparagraphs (1), (3), and (4) of this paragraph, the rating of each such producer shall be that proportion of milk received from him which is the proportion of the aggregate daily base milk to the aggregate daily delivery of milk of all other producers; effective for the remainder of the then current calendar year the rating of each such producer shall be the average of his ratings for each of such first three delivery periods: *Provided,* That ratings under this subparagraph shall not be effective for any producer during the period when handlers are required to make payment to any such producer pursuant to § 920.8 (a) (1) (i);

(3) Effective for each year subsequent to October 1, 1938, divide the total receipts in bulk by handlers during the four months of the preceding year when receipts were lowest, by the number of days on which milk was received and take such a percentage of the result as will make the total of all figures so determined approximately equal to 115 percent of the average Class I milk, Class II milk, and Class III milk per day disposed of during October, November, December, January, February, March, April, and May of the preceding year by all handlers by whom such milk was received; and

(4) At the beginning of each calendar quarter the figure computed pursuant to this paragraph for each producer from whom a handler receives milk shall be adjusted by that percentage which will make the sum of all such figures equal to 115 percent of the Class I, Class II, and Class III milk of all handlers during the calendar quarter immediately preceding.

(5) *Base rules.* The following rules shall be observed by the market administrator with respect to the allotment and administration of bases.

(i) A producer, whether landlord or tenant may retain his base when moving his entire herd from one farm to another farm.

(ii) A landlord who rents on shares shall be entitled to the entire base to the exclusion of the tenant, if the landlord owns the entire herd, and the tenant shall be entitled to the entire base to the

exclusion of the landlord, if the tenant owns the entire herd: *Provided*, That a base allotted under a tenant and landlord relationship shall be a joint base and may be divided between the joint holders only if such relationship is terminated: *And provided further*, That if such tenant-landlord relationship is terminated, the base shall be divided between the tenant and the landlord according to their respective ownership of the cattle as may be shown to the market administrator.

(iii) In the event a producer, who distributes his own production of milk, ceases such distribution and begins the regular delivery of his milk to a handler, the market administrator shall compute for such producer a base which shall be equal to the average daily Class I, Class II, and Class III milk of such producer, as computed by the market administrator according to § 920.3 (c) and (d), for the three delivery periods next preceding the delivery period in which the producer begins the regular delivery of milk to a handler.*

§ 920.8 *Payments for milk*—(a) *Time and method of payment.* (1) On or before the 15th day after the end of each delivery period, other than the delivery periods of June, July, August, and September, each handler, with respect to milk received from outside the State of Indiana or received at the handler's plant outside the State of Indiana during such delivery period, shall make payment, subject to the butterfat differential set forth in paragraph (c) of this section, to producers from whom such milk was received, as follows:

(i) To any such producer who did not regularly sell milk during a period of 30 days next preceding November 13, 1937, to a handler or to persons within the marketing area, or distribute milk in the marketing area, at the Class IV price for all the milk received from such producer during the period beginning with the first regular delivery of milk of such producer and continuing until the end of 2 full calendar months following the date of such first delivery of milk; and

(ii) To all other such producers, at the uniform prices per hundredweight for base milk and for excess milk computed for such handler pursuant to § 920.7 (b) (1).

(2) On or before the 15th day after the end of each June, July, August, and September delivery period, each handler, with respect to milk received from outside the State of Indiana or received at the handler's plant outside the State of Indiana during such delivery period, shall make payment, subject to the butterfat differential set forth in paragraph (c) of this section, to producers from whom such milk was received, as follows:

(i) To any such producer who did not regularly sell milk during a period of 30 days next preceding November 13, 1937, to a handler or to persons within the marketing area, or distribute milk in the marketing area, at the Class IV price for all the milk received from such producer during the period beginning with the first regular delivery of milk of such producer and continuing until the end of 2 full calendar months following the date of such first delivery of milk; and

(ii) To all other such producers, at the uniform price per hundredweight computed for such handler pursuant to § 920.7 (b) (2).

(b) *Errors in payments.* Errors made from whatever cause, in the payments prescribed in this section, shall be corrected not later than the date for making payments next following the determination of such errors.

(c) *Butterfat differential.* If any handler has received from any producer, during the delivery period, milk having an average butterfat content other than 3.8 percent, such handler, in making payments pursuant to paragraph (a) of this section, shall add to the prices per hundredweight for such producer, for each one-tenth of 1 percent of average butterfat content in milk above 3.8 percent, not less than, or shall deduct from such prices for such producer, for each one-tenth of 1 percent of average butterfat content in milk below 3.8 percent, not more than, an amount as follows:

(1) If the average butter price used in § 920.4 (a) and (b) is 29 cents or less—3 cents.

(2) If the average butter price used in § 920.4 (a) and (b) is 29.1 cents to 34 cents—3.5 cents.

(3) If the average butter price used in § 920.4 (a) and (b) is 34.1 cents to 39 cents—4 cents.

(4) If the average butter price used in § 920.4 (a) and (b) is over 39 cents—4.5 cents.*

§ 920.9 *Marketing services*—(a) *Deductions for marketing services.* Except as set forth in paragraph (b) of this section, each handler shall deduct an amount not exceeding 3 cents per hundredweight (the exact amount to be determined by the market administrator, subject to review by the Secretary) from the payments made to each producer pursuant to subparagraphs (1) and (2) of § 920.8 (a) with respect to all milk received by such handler during each delivery period from such producer, and shall pay such deductions to the market administrator on or before the 15th day after the end of such delivery period. Such moneys shall be expended by the market administrator, for market information to and for verification of weights, sampling, and testing of milk received from the said producers.

(b) *Producers' cooperative associations.* In the case of producers for whom a cooperative association, which the Secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the Capper-Volstead Act, is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make the deductions from the payments to be made pursuant to subparagraphs (1) and (2) of § 920.8 (a) which are authorized by such producers and, on or before the 15th day after the end of each delivery period, pay over such deductions to the association of which such producers are members.*

§ 920.10 *Amendment, suspension, or termination of order, as amended*—(a) *Effective time.* The provisions hereof, or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to paragraph (b) of this section.

(b) *Suspension or termination of order, as amended.* The Secretary may suspend or terminate this order, as amended, or any provision hereof, whenever he finds that this order, as amended, or any provision hereof, obstructs, or does not tend to effectuate the declared policy of the act. This order, as amended, shall terminate, in any event, whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing power and duty of the market administrator.* If, upon the suspension or termination of any or all provisions hereof, there are any obligations arising hereunder the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided*, That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

The market administrator, or such other person as the Secretary may designate, shall (1) continue in such capacity until removed by the Secretary, (2) from time to time account for all receipts and disbursements and, when so directed by the Secretary, deliver all funds or property on hand together with the books and records of the market administrator, or such person, to such person as the Secretary may direct, and (3) if so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

(d) *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions hereof, the market administrator, or such person as the Secretary may designate, shall liquidate, if so directed by the Secretary, the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant

to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.*

Now, therefore, Grover B. Hill, Acting Secretary of Agriculture, acting under the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, for the purposes and within the limitations therein contained and not otherwise, hereby executes and issues in duplicate this order, as amended, under his hand and the official seal of the Department of Agriculture, in the city of Washington, District of Columbia on this 26th day of August, 1941, and declares this order, as amended, to be effective on and after the 1st day of September 1941.

[SEAL] GROVER B. HILL,
Acting Secretary of Agriculture.

[F. R. Doc. 41-6443; Filed, August 27, 1941; 11:25 a. m.]

[Order No. 58]

PART 958—IRISH POTATOES GROWN IN THE STATE OF COLORADO

ORDER REGULATING THE HANDLING OF IRISH POTATOES GROWN IN THE STATE OF COLORADO

Sec.

It is provided in Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (hereinafter referred to as the "act"), that the Secretary of Agriculture of the United States (hereinafter referred to as the "Secretary") shall, subject to the provisions of the act, issue orders regulating such handling of certain agricultural commodities, including Irish potatoes, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such commodities.

The Acting Secretary, having reason to believe that the execution of the marketing agreement and the issuance of an order would tend to effectuate the declared policy of the act with respect to the establishment and maintenance of such orderly marketing conditions for Irish potatoes grown in the State of Colorado as would establish prices to the producers of such Irish potatoes at a level that would give such Irish potatoes a purchasing power with respect to articles that the producers thereof buy equivalent to the purchasing power of such Irish potatoes during the base period, August 1919–July 1929 (a proclamation with respect to the use of such period having been issued [1]), conducted a public hearing in Denver, Colorado, on December 2 and 3, 1940, pursuant to notice duly given to all interested parties,[2] on a proposed marketing agreement and a proposed order regulating such handling of such Irish potatoes as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects such commerce in such Irish potatoes; and at the aforesaid hearing all interested persons in attendance were afforded due opportunity to be heard concerning the proposed marketing agreement and the proposed order.

Upon the basis of the evidence introduced at the hearing and the record thereof, it is hereby found:

(a) That the terms and provisions of this order prescribe, so far as practicable, such different terms, applicable to different production areas, as are necessary to give due recognition to the difference in production and marketing of such Irish potatoes;

(b) That this order is limited in its application to the smallest regional production area that is practicable, consistently with carrying out the declared policy of the act, and that the issuance of several orders applicable to any subdivision of such regional production area would not effectively carry out the declared policy of the act; and

(c) That this order and all the terms and conditions thereof will tend to effectuate the declared policy of the act with respect to Irish potatoes grown in the State of Colorado by establishing and maintaining such orderly marketing conditions therefor as will establish prices to the producers thereof at a level that will give such Irish potatoes a purchasing power with respect to articles that the producers thereof buy equivalent to the purchasing power of such Irish potatoes in the base period, and by protecting the interest of the consumer by (1) approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and by (2) authorizing no action which has for its purpose the maintenance of prices to producers of such Irish potatoes above the level which it is declared in the act to be the policy of Congress to establish.

It is further found:

(a) That a marketing agreement regulating the handling of Irish potatoes grown in the State of Colorado, executed on the 26th day of August 1941, upon which the aforesaid hearing was held in Denver, Colorado, on December 2 and 3, 1940, was signed by handlers (excluding cooperative associations of producers who were not engaged in processing, distributing, or shipping the Irish potatoes covered by this order) who handled not less than fifty (50) percent of the volume of such Irish potatoes covered by this order;

(b) That this order regulates the handling of such Irish potatoes in the same manner as the aforesaid marketing agreement, and that it is made applicable only to persons in the respective classes of industrial and commercial activity specified in the said marketing agreement;

(c) That the issuance of this order is favored by producers who participated in a referendum conducted pursuant to the provisions of said act and who, during the period of January 1, 1940, to May 1, 1941, both dates inclusive (which is hereby determined to be a representative period), produced for market within the State of Colorado at least two-thirds of the volume of Irish potatoes produced for market within such production area during the aforesaid period; and

(d) That the issuance of this order is favored by at least two-third of the producers who participated in the aforesaid referendum and who, during the aforesaid representative period, have been engaged, within the State of Colorado, in the production for market of Irish potatoes.

It is, therefore, ordered, That such handling of Irish potatoes grown in the State of Colorado as is in the current of commerce between the State of Colorado and any point outside thereof shall, from and after the date hereinafter specified, be in conformity to and in compliance with the terms and conditions of this order.

§ 958.1 *Definitions.* As used herein, the following terms have the following meanings:

(a) "Secretary" means the Secretary of Agriculture of the United States, or the Under Secretary of Agriculture of the United States, or the Assistant Secretary of Agriculture of the United States.

(b) "Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246 (1937), 7 U.S.C. § 601 et seq., Supp. V, 1939), as amended.

(c) "Person" means an individual, partnership, corporation, association,

[1] See Department of Agriculture, Surplus Marketing Administration, *infra.*

[2] 5 F.R. 4600.

legal representative, or any organized group or business unit of individuals.

(d) "Area" means any of the following subdivisions of the State of Colorado:

(1) "Area No. 1," commonly known as the Western Slope, includes and consists of the counties of Routt, Eagle, Pitkin, Gunnison, Hindsdale, La Plata, in the State of Colorado, and all counties in said State west of the aforesaid counties.

(2) "Area No. 2," commonly known as the San Luis Valley, includes and consists of the counties of Saguache, Huerfana, Las Animas, Mineral, Archuleta, in the State of Colorado, and all counties, in said State, south of the counties enumerated in this definition of Area No. 2.

(3) "Area No. 3" includes and consists of all the remaining counties in the State of Colorado which are not included in Area No. 1 or Area No. 2.

(e) "Potatoes" means and includes all varieties of Irish potatoes grown within any of the aforesaid areas.

(f) "Handler" is synonymous with "shipper" and means any person (except a common carrier of potatoes owned by another person) who first ships potatoes in fresh form.

(g) "Ship" means to transport, sell, or in any other way to ship or place potatoes in the current of commerce between the State of Colorado and any point outside thereof.

(h) "Producer" means any person engaged in the production of potatoes for market.

(i) "Fiscal period" means the period beginning on June 1 of each year and ending on May 31 of the following year.

(j) "U. S. Standards for Potatoes" means the United States Standards for Potatoes issued by the Secretary on April 30, 1940, effective on May 15, 1940, and such modification thereof as may hereafter be issued by the Secretary.

(k) "Culls" means potatoes which do not meet the requirements set forth in § 958.2 hereof or a modification thereof made effective by the Secretary.*

*§§ 958.1 to 958.19, inclusive, issued under the authority contained in 48 Stat. 31, 49 Stat. 750, 50 Stat. 246; 7 U. S. C. 601, and Sup.

§ 958.2 *General cull regulation*—(a) *Limitation of shipments.* The Secretary shall issue an order, whenever he determines that the initial committees herein provided for have been selected and are prepared to exercise their powers and perform their duties herein assigned, which will provide for the regulation pursuant to this section being and becoming effective at the time specified in said order. After the effective time specified in said order issued pursuant to the provisions of this paragraph, no handler shall, except as provided herein, ship potatoes which do not meet the requirements of the U. S. No. 2 or better grade, as such grades are defined in said U. S. Standards for Potatoes, except that a mixture of varieties may be shipped: *Provided,* That no potatoes of the U. S. No. 2 grade or better grades, as defined in said U. S. Standards for Potatoes, which are less than 1½ inches in diameter, may be shipped in addition to the tolerance by weight for undersize as specified for the respective grade in said U. S. Standards for Potatoes.

(b) *Suspension or modification.* The Colorado Potato Committee may recommend to the Secretary the suspension or modification of § 958.2 (a) hereof, and each such recommendation should be accompanied by supporting information. If the Secretary finds, upon the basis of such recommendation and information submitted by said committee, or upon the basis of other available information, that to do so will tend to effectuate the declared policy of the act, he shall suspend the operation of § 958.2 (a) hereof, or modify the regulation thereof, so as to permit the shipment of potatoes, the shipment of which otherwise would be prohibited pursuant to § 958.2 (a). Such suspension or modification may be made applicable, during a specified period, to any or all varieties of potatoes. In like manner and upon the same basis, the Secretary may terminate any such suspension or modification.

(c) *Notice.* No regulation issued by the Secretary pursuant to the provisions of this section, shall become effective within less than two days subsequent to the day of issuance thereof. A copy of each regulation, issued by the Secretary pursuant to the provisions of this section, shall be forwarded promptly to the Colorado Potato Committee; said Colorado Potato Committee shall give such notice thereof as may be reasonably calculated to bring each such regulation to the attention of all interested parties.*

§ 958.3 *Grade, size, and quality regulations*—(a) *Marketing policy.* Each area committee and the Colorado Potato Committee shall, prior to making any recommendation pursuant to this section or § 958.2 hereof, submit to the Secretary a detailed report setting forth the marketing policy with respect to the shipment of potatoes which the respective committee deems advisable for the ensuing shipping season. Additional reports shall be submitted, from time to time, in the event that it is deemed advisable by the respective committee to adopt a new marketing policy in view of changed demand and supply conditions with respect to potatoes. The respective committee thus submitting such a report shall publicly announce the submission of each such report, and copies thereof shall be made available at the office of the committee for inspection by any producer or handler. In determining each such marketing policy the respective committee shall give due consideration to the following factors relating to potatoes produced in the State of Colorado and in other States: (1) the available crop of potatoes, including the grades and sizes thereof, in the respective areas in the State of Colorado and in other States; (2) probable shipments of potatoes from other States which compete with potato shipments from the respective areas in the State of Colorado; (3) the level and trend in consumer income; and (4) other pertinent factors bearing on the marketing of potatoes.

(b) *Committee recommendations.* (1) Whenever any area committee deems it advisable in order to effectuate the declared policy of the act, to regulate the shipment of potatoes, grown in the respective area, by grades, sizes, or qualities, or combinations thereof, during any specified period, it shall so recommend to the Secretary. In making such recommendations such committee shall give due consideration to the following factors: (i) market prices, including prices by grades and sizes of potatoes for which regulation is recommended; (ii) potatoes on hand in the market areas as manifested by supplies en route and on track at the principal markets; (iii) available supply, maturity, and conditions of potatoes in the respective area, including the grades and sizes of potatoes remaining in the area; (iv) supplies from competitive areas and regions producing potatoes; and (v) the trend in consumer income.

(2) At the time of submitting such recommendation, the respective committee shall furnish to the Secretary the pertinent data and information upon which it acted in making such recommendation; and, also, the committee shall submit such other data and information as the Secretary may request.

(c) *Establishment of regulations.* Whenever the Secretary shall find, from the recommendation and information submitted by an area committee, or from other available information, that to limit the shipment of potatoes would tend to effectuate the declared policy of the act, he shall, during the period specified in the regulation thus issued by the Secretary, limit the shipments of potatoes grown in such area to potatoes of specified grades, sizes, or qualities, or combinations thereof, and any such limitation may apply to any or all varieties and may specify tolerances for particular defects in quality.

(d) *Exemption certificates.* (1) Before the institution of any limitation of shipments pursuant to this section, each area committee shall adopt procedural rules pursuant to which exemption certificates will be issued to producers; and such procedural rules shall become effective upon approval by the Secretary. The respective committee shall, after the procedural rules have been approved by the Secretary, give such notice thereof as may be reasonably calculated to bring such rules to the attention of all interested persons. In the event the Secretary issues a regulation pursuant to this section, the respective area committee shall determine, for the respective area for which it functions, the percentage which the quantity of grades, sizes, and qualities of potatoes permitted to be shipped under

such regulation is of the total quantity of such potatoes, except culls, which would be available for shipment in the area in the absence of such regulation; and the committee shall forthwith announce such percentage. An exemption certificate shall thereafter be issued to any producer in the area who furnishes proof, satisfactory to the respective area committee, that he will be prevented, because of the regulation established, from shipping as large a percentage of any specified variety or varieties, except culls, as the percentage for all producers of the variety or varieties in the respective area. Such exemption certificate shall permit the respective producer to whom the certificate is issued to ship or have shipped a quantity of the restricted or prohibited grades, sizes, and qualities sufficient to permit the respective producer to ship or have shipped as large a proportion of his crop of each such variety of potatoes, grown in such area, as the average for all producers of the particular variety in the respective area. Each committee shall maintain a record of all applications submitted for exemption certificates, pursuant to the provisions of this section; and each committee shall maintain a record of all certificates issued, including the information used in determining in each instance the quantity of potatoes thus to be exempted, together with a record of all shipments of exempted potatoes; and such additional information shall be recorded in the records of the committee as the Secretary may specify. Each area committee shall, from time to time, submit to the Secretary reports stating in detail the number of exemption certificates issued, the quantity of potatoes thus exempted, and such additional information as may be requested by the Secretary.

(2) Each area committee may authorize an employee to receive applications for exemption certificates, make the necessary investigation with regard to whether an exemption certificate should be issued and, if so, the quantity of potatoes which should be thus exempted, and issue for and on behalf of the respective committee an exemption certificate: *Provided*, That the committee shall not authorize an employee or employees (i) to determine the grades, sizes, and qualities, or combinations thereof, of potatoes grown in such area which would be available for shipment in the absence of any regulation or (ii) to determine the percentage that the quantity of a particular variety or varieties of potatoes, grown in such area, permitted to be shipped pursuant to regulation, is of the quantity which could have been shipped in the absence of regulation.

(3) If any producer is dissatisfied with the determination of an employee or employees who have exercised jurisdiction with regard to the application submitted by the respective producer, such producer may appeal to the respective area committee: *Provided*, That such appeal must be taken promptly after the decision by the respective employee or employees. If any producer is dissatisfied with the determination by the respective area committee with respect to the producer's application for an exemption certificate or with regard to an appeal, as aforesaid, by said producer from the determination of an employee or employees, such producer may appeal to the Secretary: *Provided*, That such appeal shall be taken promptly after the determination by the respective area committee. The Secretary may, upon an appeal as aforesaid, modify or reverse the action of the committee from which such appeal was taken. The authority of the Secretary to supervise and control the issuance of exemption certificates is unlimited and plenary; and any determination by the Secretary with respect to an exemption certificate, the application for an exemption certificate, or an appeal from the action of a committee with respect to an application for an exemption certificate shall be final and conclusive.

(e) *Notice.* No regulation issued by the Secretary pursuant to the provisions of this section shall become effective within less than two days subsequent to the day of issuance thereof. A copy of each regulation, issued by the Secretary pursuant to this section, shall be forwarded promptly to the respective area committee and thereupon the respective committee shall give such notice thereof as may be reasonably calculated to bring such regulation to the attention of all interested parties.*

§ 958.4 *Inspection and certification.* During any period in which the shipment of potatoes is regulated pursuant to the provisions of § 958.2 or § 958.3 hereof, each handler shall, prior to making each shipment of potatoes, cause each such shipment to be inspected by a Federal or Federal-State Inspector: *Provided*, That this requirement shall not be applicable (a) to a handler who ships potatoes which have been so inspected, (b) to a handler who ships potatoes for seed purposes in containers bearing the official Colorado seed certification tag, or (c) to a handler who ships potatoes for consumption by a charitable institution or institutions or for distribution for relief purposes or for distribution by a relief agency or agencies. Each handler shall, promptly after making each shipment of potatoes, submit to the area committee, for the area from which the respective shipment was made, a copy of the certificate or memorandum issued by the Federal-State Inspection Service with regard to the respective shipment of potatoes, and such certificate or memorandum shall state the grade, size, and quality of the potatoes in such shipment.*

§ 958.5 *Compliance.* Except as provided herein, no handler shall ship potatoes, the shipment of which has been prohibited in accordance herewith; and no handler shall ship potatoes except in conformity to the provisions hereof, and the provisions of the regulations, if any, issued by the Secretary pursuant to the provisions hereof.*

§ 958.6 *Shipments which are exempt.* (a) Potatoes officially certified as seed potatoes by the official Colorado seed potato certification agency shall be exempt, when shipped for seed purposes in containers bearing the official State seed certification tag, from the provisions of § 958.2 (a) hereof or § 958.3 (c) hereof. The Secretary may prescribe, on the basis of the recommendation and information submitted by an area committee, or by the Colorado Potato Committee, or on the basis of other available information, adequate safeguards to prevent such seed potatoes, shipped as aforesaid, from entering the commercial channels of trade other than as seed potatoes for use as seed.

(b) Potatoes shipped for consumption by a charitable institution or institutions or for distribution for relief purposes or for distribution by a relief agency or agencies or potatoes shipped for manufacturing purposes for conversion into by-products shall be exempt from the provisions of § 958.2 (a) hereof and exempt from the provisions of any regulation issued pursuant to § 958.3 (c) hereof. The Secretary may prescribe, on the basis of the recommendation and the information submitted by an area committee, or by the Colorado Potato Committee, or on the basis of other available information, adequate safeguards to prevent potatoes shipped to charitable institutions or for distribution by relief agencies or for manufacturing purposes for conversion into by-products from entering the commercial channels of trade for any other purpose.

(c) The Secretary may prescribe, on the basis of the recommendation and information submitted by an area committee, or on the basis of other available information, that potatoes shipped for feed for livestock shall be exempt from the provisions of any regulation issued pursuant to § 958.3 (c) hereof. The Secretary may prescribe on the basis of the recommendation and information submitted by the committee, or on the basis of other available information, adequate safeguards to prevent potatoes thus shipped for feed for livestock from entering commercial channels of trade for any other purpose.*

§ 958.7 *Area committees*—(a) *Membership and organization.* (1) An area committee is hereby established for each area. The members of each area committee and their respective alternates shall be selected in accordance with the provisions hereof. Each committee shall have the following number of members who shall be selected from the indicated subdivisions of the respective area;

(i) Area No. 1 (Western Slope): Four producers and three handlers selected as follows:

Two (2) producers and one (1) handler from the counties of Eagle, Garfield, Pitkin, Moffat, and Routt, in the State of Colorado;

Two (2) producers and one (1) handler from the remaining counties of Area No. 1;

One (1) handler representing all producers' cooperative marketing associations in Area No. 1;

(ii) Area No. 2 (San Luis Valley): Six producers and five handlers selected as follows:

Three (3) producers from Rio Grande County;

One (1) producer from Saguache County;

One (1) producer from Conejos County;

One (1) producer from all other counties in Area No. 2;

Two (2) handlers representing all producers' cooperative marketing associations in Area No. 2;

Three (3) handlers representing handlers in Area No. 2 other than producers' cooperative marketing associations;

(iii) Area No. 3: Five producers and four handlers selected as follows:

Three (3) producers from Weld County;

One (1) producer from Morgan County;

One (1) producer from the remaining counties of Area No. 3;

Four (4) handlers from Area No. 3.

(2) There shall be an alternate member for each member of each area committee; and each such alternate member shall have the same qualifications and shall be selected in the same manner as the respective member for whom such individual serves as an alternate. The alternate for a member of an area committee shall, in the event of the respective member's absence, act in the place of said member; and in the event of such member's removal, resignation, disqualification, or death, the alternate for said member shall, until a successor for the unexpired term of said member has been selected, act in the place of said member.

(3) The producers who may be selected as members of an area committee shall be individuals who are producers of potatoes in the respective area or officers or employees of a producer or producers in such area. The handlers who may be selected as members of an area committee shall be individuals who are handlers of potatoes in the respective area or officers or employees of a handler or handlers in such area.

(b) *Selection of initial members of each committee.* The initial members of each committee and their respective alternates shall be selected by the Secretary, as soon as reasonably possible after the effective date hereof, for a term ending on May 31, 1942, and each such member or alternate shall serve until his respective successor has been selected and has qualified. The Secretary may consider, in selecting the initial members of each area committee and their respective alternates, such nominations or suggestions, if any, as the producers in the respective area may submit with regard to producer membership on the area committee for the respective area; and such nominations or suggestions, if any, submitted by producers as aforesaid may be as a result of elections conducted by a group or groups of producers prior to, or immediately subsequent to, the effective date hereof. The Secretary may consider, in selecting the handler members of each area committee and their respective alternates, such nominations or suggestions, if any, as may be submitted by handlers in the respective area with respect to the handler members on the area committee for the respective area; and such nominations or suggestions may be by virtue of elections conducted by a group or groups of handlers prior to, or immediately subsequent to, the effective date hereof.

(c) *Nomination and selection of succeeding members of each area committee.* (1) Each area committee shall, after the year 1941, hold or cause to to be held prior to May 15 of each year a meeting of producers and a meeting of handlers, in each of the area subdivisions designated in § 958.7 (a) hereof, for the purpose of designating nominees from among whom the Secretary may select members and alternates of the area committees; and at each such meeting at least two nominees shall be designated for each position as member and at least two nominees shall be designated for each position as alternate member on the committee as representative or representatives of the respective subdivision. Each producer is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives, in designating nominees for membership on the committee for the respective area in which such producer is engaged in producing potatoes: *Provided,* That in the event a producer is engaged in producing potatoes in more than one area, such producer shall elect the area within which he shall participate in designating nominees as aforesaid and, if such producer is engaged in producing potatoes in more than one subdivision of an area, such producer shall elect with regard to the subdivision in which he may participate in designating nominees. Each producer shall be entitled to cast only one vote regardless of the number of districts or subdivisions in which he produces potatoes. Only producers may participate in designating producer nominees. Only duly authorized representatives of producers' cooperative marketing associations shall participate in making nominations for handler members and alternates representing such associations; and each such cooperative marketing association of producers shall be entitled to cast only one vote in designating nominees for membership on the committee for the respective area in which such cooperative marketing association is engaged in handling potatoes: *Provided,* That in the event a cooperative marketing association of producers is engaged in handling in more than one area, such cooperative association shall elect the area within which it may participate in designating nominees. Only handlers and representatives of producers' cooperative marketing associations not having separate representation shall participate in designating nominees for handler members and alternates other than those representing producers' cooperative marking associations. Each handler is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives, in designating nominees for membership on the committee for the respective area in which such handler is engaged in handling potatoes: *Provided,* That in the event a handler is engaged as a handler in more than one area, such handler shall elect the area within which he may participate in designating nominees, and in the event a handler is engaged as a handler in more than one subdivision within an area, such handler shall elect the subdivision within which he may participate in designating nominees. Each handler shall be entitled to cast only one vote regardless of the number of districts or subdivisions in which he may be engaged as a handler. The Secretary shall select the producer members of each area committee and their respective alternates, except the initial members and alternates, from nominations made by producers as provided in this section. The Secretary shall select the handler members of each area committee and their respective alternates, except the initial members and alternates, from nominations made by handlers as provided in this section.

(2) In the event nominations are not made for membership on a committee, pursuant to the provisions of § 958.7 (c) (1), by May 15 of the respective year, the Secretary may select such members and their respective alternates without waiting for nominees to be designated. To fill any vacancy occasioned by the failure of any person, selected as a member of an area committee or as an alternate member thereof, to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member or alternate, a successor for his unexpired term shall be selected by the Secretary.

(3) Each person selected as a member of an area committee, or an alternate member thereof, shall promptly qualify by filing with the Secretary a written acceptance of the appointment.

(4) The members of each area committee and their respective alternates shall be selected to serve for a fiscal year and, if their successors have not been selected and qualified prior to the end of the respective fiscal year, each such member or alternate shall continue to serve until his respective successor shall have been selected and qualified; and the initial members and their respective alternates shall serve until May 31, 1942, and if their respective successors have

not been selected and qualified prior to the end of the respective fiscal year, each such member or alternate shall continue to serve until his respective successor shall have been selected and qualified.

(d) *Compensation.* Each member and each alternate serving in place of a member of an area committee may receive compensation in an amount not in excess of five ($5.00) dollars per day for attendance at each meeting of the respective committee; and, in addition to said per diem, the aforesaid member and alternate may be reimbursed for necessary expenses actually incurred in attending each such meeting.

(e) *Procedure.* (1) Each area committee may, upon the selection and qualification of a majority of its members, organize and commence to function. A majority of all members shall be necessary to constitute a quorum of the respective area committee.

(2) For any decision of an area committee to be valid, a majority of the votes of all members shall be necessary. Except as provided herein, each member, or alternate member when acting as a member, shall vote in person.

(3) Each area committee may provide for the members thereof, including the alternate members when acting as members, to vote by mail, telegraph, or radiograph; and any such vote which is not cast in person at a meeting shall be confirmed promptly in writing.

(4) Each area committee shall select a chairman, a secretary, and such other officers as it may deem advisable; and each area committee shall adopt such rules, not inconsistent with the provisions hereof, relative to the method of conducting its business, as it may deem advisable. Each area committee shall give to the Secretary the same notice of its meetings as is given to the members thereof.

(f) *Powers.* Each area committee shall, with respect to the respective area for which such committee has been selected, have the following powers:

(1) To administer, as herein specifically provided, the terms and provisions hereof;

(2) To make, in accordance with the provisions herein contained, administrative rules and regulations;

(3) To receive, investigate, and report to the Secretary complaints of violations hereof; and

(4) To recommend to the Secretary amendments hereto.

(g) *Duties.* Each area committee shall, with regard to the respective area for which such committee has been selected, have the following duties:

(1) To act as intermediary between the Secretary and any producer or handler;

(2) To keep minutes, books, and records which will clearly reflect all of its acts and transactions, and such minutes, books, and records shall at all times be subject to examination by the Secretary or his authorized agent or representative;

(3) To furnish the Secretary or any other committee established pursuant to the provisions hereof such available information as may be requested by the Secretary or any such committee;

(4) To select such employees as it may deem necessary and to determine the salaries and define the duties of such employees;

(5) To cause its books to be audited by one or more competent accountants at least once each fiscal period, and at such other times as it deems necessary or as the Secretary may request, and to file with the Secretary a copy of each such audit report;

(6) To prepare from time to time statements of the financial operations of the committee and to make such statements, together with the minutes of the meetings of said committee, available for inspection by any producer or handler at the office of the committee;

(7) To perform such duties in connection with the administration of section 32 of the Act to Amend the Agricultural Adjustment Act, and for other purposes, Public Act No. 320, 74th Congress (August 24, 1935), as amended, as may from time to time be assigned to the respective committee by the Secretary;

(8) To submit to the Secretary such available information as may be requested by the Secretary.

(h) *Funds.* All funds received by an area committee pursuant to any provision hereof shall be used solely for the purposes herein specified and shall be accounted for in the following manner: (1) the Secretary may, at any time, require an area committee and its members to account for all receipts and disbursements; and (2) whenever any person ceases to be a member of an area committee, he shall account for all receipts and disbursements and deliver all property and funds in his hands, together with all books and records in his possession, to his successor in office or to such person as the Secretary may designate, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or in such designated person the right to all the property, funds, or claims vested in such member.*

§ 958.8 *Colorado Potato Committee—*(a) *Membership and organization.* (1) The Colorado Potato Committee, consisting of six members, is hereby established. Two of the members of said Colorado Potato Committee shall be selected by the Secretary from each area committee. There shall be an alternate member for each member of said Colorado Potato Committee; and each such alternate member shall have the same qualifications and shall be selected in the same manner as the respective member for whom such individual serves as an alternate. The alternate for a member of the Colorado Potato Committee shall, in the event of the respective member's absence, act in the place of said member; and in the event of such member's removal, resignation, disqualification, or death, the alternate for said member shall, until a successor for the unexpired term of said member has been selected, act in the place of said member. The initial members of said Colorado Potato Committee and their respective alternates shall be selected by the Secretary, as soon as reasonably possible after the effective date hereof, for a term ending on May 31, 1942, and if their respective successors have not been selected and qualified by May 31, 1942, each such member or alternates shall continue to serve until his respective successor shall have been selected and qualified. The members of the Colorado Potato Committee and their respective alternates, except the initial members and alternates, shall serve for the fiscal year for which they are selected by the Secretary and if their respective successors have not been selected and qualified by the end of the respective fiscal year, each such member or alternate shall continue to serve until his respective successor shall have been selected and qualified. The Secretary may consider, in selecting the members of the Colorado Potato Committee and their respective alternates, such nominations or suggestions, if any, as each area committee may submit with regard to the respective area's representation on the Colorado Potato Committee.

(2) Any person selected as a member of the Colorado Potato Committee or as an alternate member thereof, shall promptly qualify by filing with the Secretary a written acceptance of the appointment.

(3) To fill any vacancy occasioned by the failure of any person selected as a member of the Colorado Potato Committee or as an alternate member thereof to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member or alternate member of said committee, a successor for his unexpired term shall be selected by the Secretary.

(4) Each member and each alternate serving as a member of the Colorado Potato Committee shall be reimbursed, by the respective area committee of which he is a member or alternate, for the expenses necessarily incurred by said individual in the performance of his duties as a member of the Colorado Potato Committee, and shall be compensated by said area committee in an amount not in excess of five ($5.00) dollars per day while so engaged in the performance of his duties as a member of the Colorado Potato Committee. Such other expenses, if any, as may be incurred by the Colorado Potato Committee and approved by the Secretary shall be allotted to, and paid by, such area committee or area committees as may be specified in an order issued by the Secretary pursuant to the provisions hereof.

(b) *Procedure.* (1) The Colorado Potato Committee may, upon the selection and qualification of a majority of its members, organize and commence to function. A majority of all members shall be necessary to constitute a quorum of the Colorado Potato Committee.

(2) For any decision of the Colorado Potato Committee to be valid a majority of the votes of all members shall be necessary. Except as provided herein, each member or alternate member when acting as a member shall vote in person.

(3) The Colorado Potato Committee may provide for the members thereof, including the alternate members when acting as members, to vote by mail, telegraph, or radiograph; and any such vote that is not cast in person at a meeting shall be confirmed promptly in writing.

(4) The Colorado Potato Committee shall select a chairman and such other officers as it may deem advisable, and shall adopt such procedural rules, not inconsistent with the provisions hereof, as it may deem advisable.

(c) *Powers.* The Colorado Potato Committee shall have the following powers:

(1) To administer, as herein specifically provided, the terms and provisions hereof;

(2) To make rules and regulations to effectuate the terms and provisions hereof with regard to the duties of said committee;

(3) To receive, investigate, and report to the Secretary complaints of violations hereof;

(4) To recommend to the Secretary amendments hereto.

(d) *Duties.* The Colorado Potato Committee shall have the following duties:

(1) To supervise, when no regulation is in effect pursuant to § 958.3 hereof, the regulation of shipments pursuant to the provisions of § 958.2 hereof, and to cooperate with any area committee in connection with administering the provisions of § 958.3 hereof or a regulation issued pursuant thereto;

(2) To consult with any other committee established hereunder or any committee established under any marketing agreement and order program, pursuant to the aforesaid act, with respect to the handling of potatoes grown in any area or in any region outside of the State of Colorado;

(3) To keep minutes, books, and records, which will clearly reflect all of its acts and transactions, and such minutes, books, and records shall be subject at all times to examination by the Secretary or the designated agent or representative of the Secretary;

(4) To act as intermediary between the Secretary and the producers and handlers;

(5) To make recommendations to the Secretary with respect to suspending or modifying the provisions of § 958.2 (a) hereof;

(6) To submit to the Secretary such available information as may be requested by the Secretary;

(7) To submit to each area committee such available information as may be requested by the respective committee;

(8) To perform such duties in connection with the administration of section 32 of the Act to Amend the Agricultural Adjustment Act, and for other purposes, Public Act No. 320, 76th Congress (August 24, 1935), as amended, as may from time to time be assigned to such committee by the Secretary.

(e) *Obligation to account for property.* Upon the removal or expiration of the term of office of any member of the Colorado Potato Committee or an alternate member thereof, each such member or alternate member shall account for all property, including but not being limited to all books and records, in his possession, and shall deliver all such property to his successor in office, and shall execute such assignments or other instruments as may be necessary or appropriate to vest in such successor the right to such property.*

§ 958.9 *Right of the Secretary.* The members of each committee provided for herein, including successors and alternates thereof, and any agent or employee appointed or employed by a committee shall be subject to removal or suspension at any time by the Secretary. Each and every order, regulation, determination, decision, or other act of each committee shall be subject to the continuing right of the Secretary to disapprove of such order, regulation, decision, determination, or other act, and upon such disapproval at any time, such action by a committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.*

§ 958.10 *Expenses and assessments*—(a) *Expenses.* Each of the area committees is authorized to incur such expenses as the Secretary finds may be necessary to enable the respective committee to perform its functions, in accordance with the provisions hereof, during each fiscal period. The funds to cover such expenses shall be acquired by the levying of assessments, as herein provided, upon handlers.

(b) *Assessments.* (1) Each handler who first ships potatoes shall pay, upon demand, to the area committee for the area from which such potatoes are shipped such handler's pro rata share of the expenses which the Secretary finds will be necessarily incurred by the respective area committee for its maintenance and functioning during each fiscal period including, but not being limited to, the expenses incurred by the Colorado Potato Committee: *Provided,* That no assessment shall be paid for a shipment or shipments of potatoes for consumption by a charitable institution or institutions or for distribution for relief purposes or for distribution by a relief agency or agencies. Such handler's pro rata share of such expenses shall be equal to the ratio between the total quantity of potatoes shipped by such handler as the first shipper thereof, during the applicable fiscal period, and the total quantity of potatoes shipped by all handlers as the first shippers thereof during the same fiscal period. The Secretary shall specify the rate of assessment to be paid by such handlers.

(2) The Secretary may, at any time during or after a fiscal period, increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses of the respective committee. Any such increase in the rate of assessment shall be applicable to all potatoes shipped during the specified fiscal period. In order to provide funds to enable each area committee to perform its functions hereunder, handlers may make advance payment of assessments.

(c) *Accounting.* (1) If, at the end of any fiscal period, the assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund shall be credited with such refund, unless such handler demands payment thereof, in which case such sum shall be paid to the respective handler.

(2) Each area committee may, with the approval of the Secretary, maintain in its own name or in the name of its members a suit against any handler for the collection of such handler's pro rata share of expenses.

(d) *Funds.* All money collected by each area committee pursuant to the provisions of this section shall be used solely for the purposes herein specified and shall be accounted for in the manner herein provided. The Secretary may, at any time, require such area committee and the members thereof, including alternate members when serving as members, to account for all receipts and disbursements.*

§ 958.11 *Reports.* For the purpose of enabling each committee to perform its functions pursuant to the provisions in this part, each handler shall furnish to the respective committee, in such form and at such times and substantiated in such manner as shall be prescribed by the respective committee and approved by the Secretary, such information as may thus be requested by the committee, subject to approval by the Secretary, with regard to each shipment of potatoes.*

§ 958.12 *Effective time and termination*—(a) *Effective time.* The provisions in this part shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until terminated in one of the ways hereinafter specified.

(b) *Termination.* (1) The Secretary may, at any time, terminate the provisions in this part by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(2) The Secretary may terminate or suspend the operation of any or all of the provisions in this part whenever he finds

that such provisions do not tend to effectuate the declared policy of the act.

(3) The Secretary shall terminate the provisions in this part at the end of any fiscal period whenever he finds that such termination is favored by a majority of producers who, during the then preceding fiscal period, have been engaged in the production of potatoes for market: *Provided*, That such majority has, during such period, produced for market more than fifty percent of the volume of such potatoes produced for market; but such termination shall be effective only if announced on or before May 31 of the then current fiscal period.

(4) The provisions in this part shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

(c) *Proceedings after termination.* (1) Upon the termination of the provisions in this part, the then functioning members of each committee shall continue as trustees, for the purpose of liquidating the affairs of the said committee, of all the funds and property then in the possession of or under control of such committee, including claims for any funds unpaid or property not delivered at the time of such termination. The procedural rules governing the activities of said trustees, including but not being limited to the determination as to whether action shall be taken by a majority vote of the trustees, shall be prescribed by the Secretary.

(2) The said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the respective committee and of the trustees, to such person as the Secretary may direct; and shall, upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person the right to all of the funds, property, and claims vested in the respective committee or the trustees pursuant hereto.

(3) Any person to whom funds, property, or claims have been transferred or delivered by a committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of said committee and upon the said trustees.*

§ 958.13 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue hereof shall cease upon the termination hereof, except with respect to acts done under and during the existence hereof.*

§ 958.14 *Agents.* The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions in this part.*

§ 958.15 *Derogation.* Nothing contained herein is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.*

§ 958.16 *Personal liability.* No member or alternate of any committee, nor any employee thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, or employee, except for acts of dishonesty.*

§ 958.17 *Separability.* If any provision hereof is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder hereof, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.*

§ 958.18 *Amendments*—(a) *Proposals.* Amendments hereto may be proposed, from time to time, by the Colorado Potato Committee, any area committee, or by the Secretary.*

§ 958.19 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination hereof or of any regulation issued pursuant hereto, or the issuance of any amendment to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen prior thereto, or (b) release or extinguish any violation hereof or of any regulation issued hereunder, or (c) affect or impair any right or remedy of the United States, or the Secretary, or of any other person with respect to any such violation.*

Issued at Washington, D. C., on this 26th day of August 1941, to be effective on and after 12:01 a. m., m. s. t., August 30, 1941. Witness my hand and the seal of the Department of Agriculture.

[SEAL] GROVER B. HILL,
Acting Secretary of Agriculture.

[F. R. Doc. 41-6443; Filed, August 27, 1941; 11:25 a. m.]

TITLE 12—BANKS AND BANKING

CHAPTER II—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 222—CONSUMER CREDIT [1]

Sec.
222.1 Scope of part.
222.2 Definitions.
222.3 Registration and general requirements.
222.4 Instalment sale credit.
222.5 Instalment loan credit.
222.6 Certain exceptions.
222.7 Enforceability of contracts.
222.8 Renewals, revisions, and additions.
222.9 Miscellaneous provisions.
222.10 Effective date of part.
222.11 Supplement.

§ 222.1 *Scope of part.* This part is issued by the Board of Governors of the Federal Reserve System (hereinafter called the "Board") under authority of section 5 (b) of the Act of October 6, 1917, as amended, and Executive Order No. 8843, dated August 9, 1941 (hereinafter called the "Executive Order").[2]

This part applies, in general, to any person who is engaged in the business of making extensions of instalment credit, or of discounting or purchasing obligations arising out of extensions of instalment credit. It applies whether the person so engaged is acting as principal, agent, broker or otherwise, and whether the person is a bank, loan company, or finance company, or a person who is so engaged in connection with any other business, such as by making such extensions of credit as a dealer, retailer, or other person in connection with the selling of consumers' durable goods." [3]*

*§§ 222.1 to 222.11, inclusive, issued under the authority contained in sec. 5 (b), 40 Stat. 415, as amended by sec. 5, 40 Stat. 966, sec. 2, 48 Stat. 1, sec. 1, 54 Stat. 179; 12 U. S. C. 95 (a) and Sup., and Executive Order No. 8843, dated August 9, 1941.

§ 222.2 *Definitions.* For the purposes of this part, unless the context otherwise requires:

(a) "Person" means an individual, partnership, association, or corporation.

(b) "Extension of credit" means any loan or mortgage; any instalment purchase contract, any conditional sales contract, or any sale or contract of sale under which part or all of the price is payable subsequent to the making of such sale or contract; any rental-purchase contract, or any contract for the bailment or leasing of property under which the bailee or lessee either has the option of becoming the owner thereof or obligates himself to pay as compensation a sum substantially equivalent to or in excess of the value thereof; any contract creating any lien or similar claim on property to be discharged by the payment of money; any purchase, discount, or other acquisition of, or any extension of credit upon the security of, any obligation or claim arising out of any of the foregoing; and any transaction or series of transactions having a similar purpose or effect.

(c) "Extension of instalment credit" means an extension of credit which the obligor undertakes to repay in two or more scheduled payments or as to which the obligor undertakes to make two or more scheduled payments or deposits usable to liquidate the credit, or which has a similar purpose or effect.

---

[1] In §§ 222.1 to 222.10, inclusive, the numbers to the right of the decimal point correspond with the respective section numbers in Regulation W, Board of Governors of the Federal Reserve System, effective (with the exceptions noted in § 222.10) September 1, 1941. § 222.11 corresponds to the Supplement to Regulation W, Board of Governors of the Federal Reserve System, effective September 1, 1941.

[2] It has been the purpose to couch this part in such terms as will eliminate the need of cross reference to the Executive Order.

[3] The Supplement (§ 222.11) to this part lists the consumers' durable goods within the scope of the part.

(d) "Extension of instalment sale credit" means an extension of instalment credit which is made, as principal, agent or broker, by any seller of any consumers' durable good specified in the Supplement (§ 222.11) to this part (hereinafter called a "listed article") and arises out of the sale of such listed article. For the purposes of this paragraph a lease or bailment which is similar in purpose or effect to a sale shall be deemed to be a sale.

(e) "Extension of instalment loan credit" means an extension of instalment credit, other than instalment sale credit, which is a loan (as distinguished from other types of extensions of credit) and which (1) is in a principal amount of $1,000 or less, or (2) regardless of amount, is wholly or partly secured, or according to any oral or written agreement of the parties is to become so secured, by any listed article which has been purchased within 45 days prior to, or is to be purchased at any time after, such extension of instalment credit; but the definition does not include any *loan upon the security of any obligation or claim* which arises out of any extension (1) of instalment sale credit or (2) of instalment loan credit as defined above in this paragraph.*

§ 222.3 *Registration and general requirements*—(a) *General requirements.* No person engaged in the business of making extensions of instalment sale credit [4] or instalment loan credit, or engaged in the business of lending on the security of or discounting or purchasing obligations or claims arising out of such extensions of credit, shall make any payment or receive any payment which constitutes or arises directly or indirectly out of any such extension of credit made by such person or out of any such obligation or claim lent on or discounted or purchased by such person, except on the following conditions:

(1) Such person shall be licensed pursuant to this section (any person so licensed being hereinafter called a "Registrant"); and

(2) The Registrant shall not make any such payment or receive any such payment (i) if, when the Registrant made the extension of instalment credit, the Registrant knew or had reason to know any fact by reason of which such extension of instalment credit failed to comply with any of the requirements of this part applicable thereto, or (ii) if, when the Registrant purchased or discounted the obligation or claim or accepted the obligation or claim as collateral, the obligation or claim showed on its face some failure to comply with such requirements, or the Registrant knew any fact by reason of which the extension of instalment credit giving rise to the obligation or claim failed to comply with such requirements, or (iii) if, when the Registrant renewed, revised, or consolidated the obligation or claim arising out of an extension of instalment credit, the Registrant knew or had reason to know any fact by reason of which such renewal, revision or consolidation resulted in a failure to comply with such requirements.

(b) *General license.* A general license is hereby granted to all persons engaged on or before December 31, 1941 in the type of business described in paragraph (a) of this section; *Provided, however,* That such general license terminates at the close of December 31, 1941 for every person who has not registered on or before that date in the manner provided in paragraph (c) of this section. After December 31, 1941, any person, whose license is not suspended, may become licensed by registering in the manner provided in paragraph (c) of this section.

(c) *Registration.* Registration as required by this section may be accomplished by filing, with the Federal Reserve Bank of the district in which the main office of the Registrant is located, a registration statement on forms obtainable from any Federal Reserve Bank or branch.

(d) *Suspension of license.* The license of any Registrant may, after reasonable notice and opportunity for hearing, be suspended by the Board, either in its entirety or as to particular activities or particular offices or for specified periods, on any of the following grounds:

(1) Any material misstatement or omission willfully or negligently made in the registration statement;

(2) Any willful or negligent failure to comply with any provision of this part or any requirement of the Board pursuant thereto.

A license which is suspended for a specified period will again become effective upon the expiration of such period. A license which is suspended indefinitely may be restored by the Board, in its discretion, if the Board is satisfied that its restoration would not lead to further violations of this part and would not be otherwise incompatible with the public interest.*

§ 222.4 *Instalment sale credit.* Except as otherwise permitted by § 222.6, any extension of instalment sale credit shall comply with the following requirements:

(a) *Maximum amount of credit.* The deferred balance shall not exceed the maximum credit value of the listed article specified in the Supplement (§ 222.11) to this part (hereinafter called the "Supplement");

(b) *Maximum maturity.* The maturity shall not exceed that specified for the listed article in the Supplement;

(c) *Amounts of payments.* Except as permitted by paragraph (d) of this section, the instalments in which the time balance is repayable shall be substantially equal in amount or be so arranged that no instalment is substantially greater in amount than any preceding instalment;

(d) *Intervals of payments.* The instalments shall be payable at approximately equal intervals not exceeding one month, except that, when appropriate for the purpose of facilitating repayment in accordance with the seasonal nature of the obligor's main source of income or to encourage off-seasonal purchases of seasonal goods, the payment schedule may reduce or omit payments over any period or periods totaling not more than 4 months during the life of such extension of instalment sale credit if the schedule increases the scheduled payments in such manner as to meet all the other requirements of this section.

(e) *Minimum monthly payment.* [5] Except as permitted by paragraph (d) of this section, the schedule of payments shall call for instalments aggregating not less than $5.00 per month;

(f) *Statement of transaction.* [6] The extension of instalment sale credit shall be evidenced by a written instrument or record, and there shall be incorporated therein or attached thereto a written statement, of which a copy shall be given to the obligor as promptly as circumstances will permit, and which shall set forth (in any order) the following information:

(1) A brief description identifying the article purchased;

(2) The *bona fide* cash purchase price of the article and accessories purchased (including any sales taxes thereon) and of any services (excluding any interest or finance charge and the cost of any insurance) rendered in connection with the acquisition thereof, itemized;

(3) The amount of the purchaser's down payment (i) in cash and (ii) in goods accepted in trade, together with a brief description identifying such goods and stating the monetary value assigned thereto in good faith;

(4) The deferred balance, which is the difference between subparagraphs (2) and (3);

(5) The amount of any insurance premium for which credit is extended and of any finance charges or interest by way of discount included in the principal amount of the obligation, or the sum of these amounts;

(6) The time balance owed by the purchaser, which is the sum total of subparagraphs (4) and (5); and

(7) The terms of payment.

(g) *Credit of which a part arises out of sale of a listed article.* In case an extension of instalment sale credit arises partly out of a sale of an article listed in the Supplement and partly out of another sale, the amount and the terms of such extension of credit shall be such as would result if the credit were divided into two parts, the part relating to the listed article being treated in accordance with

[4] It is to be noted that the term "instalment sale credit" includes only credit connected with the sale of listed articles.

[5] Effective January 1, 1942.

[6] Effective October 1, 1941.

the provisions of this part relating to such article and the remainder being treated in the manner in which the Registrant would in good faith treat a similar extension of credit if standing alone.*

§ 222.5 *Instalment loan credit.* Except as otherwise permitted by § 222.6, any extension of instalment loan credit shall comply with the following requirements:

(a) *Loans secured by listed article.* If the extension of instalment loan credit is wholly or partly secured, or according to any oral or written agreement of the parties is to become so secured, by any listed article which has been purchased within 45 days prior to, or is to be purchased at any time after, such extension of instalment loan credit:

(1) The principal amount lent to the obligor (excluding any interest or finance charges, and the cost of any insurance) shall not exceed the maximum credit value of the listed article specified in the Supplement; and, in determining such maximum credit value, the Registrant may accept in good faith a written statement signed by the obligor setting forth the *bona fide* cash purchase price of the article and of any accessories and of any services, except insurance, rendered in connection with the acquisition thereof, which statement so accepted shall, for purposes of this part, be deemed to be correct; and

(2) The maturity shall not exceed that specified for the listed article in the Supplement, and such maximum maturity shall be calculated from the date of purchase of such listed article or from the date of such extension of instalment loan credit, whichever is earlier.

(b) *Miscellaneous loans of $1,000 or less.* If the extension of instalment loan credit is not subject to paragraph (a) of this section but is in a principal amount of $1,000 or less, the maximum maturity shall not exceed that specified in the Supplement for extensions of instalment loan credit subject to this paragraph.

(c) *General requirements.* Whether subject to paragraphs (a) or (b), the extension of instalment loan credit shall comply with the following additional requirements.

(1)[7] The extension of instalment loan credit shall be evidenced by a written instrument or record, and there shall be incorporated therein or attached thereto a written statement, of which a copy shall be given to the obligor as promptly as circumstances will permit, and which shall set forth the terms of payment and, if the loan is subject to paragraph (a) of this section, the *bona fide* cash purchase price used for determining the maximum credit value of the listed article involved;

(2) Except as permitted by subparagraph (3) of this paragraph, the total of the principal and any interest or finance charges shall be payable in instalments which shall be substantially equal in amount or be so arranged that no instalment is substantially greater in amount than any preceding instalment;

(3) Instalments shall be payable at approximately equal intervals not exceeding one month, except that, when appropriate in order to facilitate repayment in accordance with the seasonal nature of the obligor's main source of income or to encourage off-seasonal purchases of seasonal goods, the payment schedule may reduce or omit payments over any period or periods totaling not more than 4 months during the life of such extension of credit if the schedule increases the scheduled payments in such manner as to meet the other requirements of this section; and

(4)[8] Except as permitted by subparagraph (3) of this paragraph, the schedule of payments shall call for instalments aggregating not less than $5.00 per month.

(d) *Determining when listed article purchased.* In case the Registrant accepts in good faith a written statement signed by the obligor that any listed article which secures an extension of instalment loan credit has not been purchased within 45 days prior to such extension of credit such statement shall, for the purposes of this part, be deemed to be correct.*

§ 222.6 *Certain exceptions.* Notwithstanding the provisions of §§ 222.4 and 222.5, the requirements of such sections shall not apply to any of the following:

(a) Any extension of credit which is secured by a *bona fide* first lien on improved real estate duly recorded.

(b) Any extension of credit over $1,000 which is made for materials and services in connection with repairs, alterations or improvements upon urban, suburban or rural real property in connection with existing structures, even though such materials include articles listed in Group C or D in the Supplement, provided the *bona fide* cash purchase price of such articles so listed does not exceed 50 per cent of the total over-all deferred balance.

(c) Any extension of instalment loan credit which is made to or for a student for *bona fide* educational purposes.

(d) Any extension of instalment loan credit if (1) the proceeds are to be used for *bona fide* medical, hospital, dental, or funeral expenses and (2) the income of the obligor available for the purpose is such that he could not reasonably meet the requirements of this part otherwise applicable, and failure to obtain the extension of credit would cause undue hardship to him; *Provided*, That if the Registrant accepts in good faith a written statement signed by the obligor and setting forth the facts relied upon to bring the loan within the exception of this paragraph the facts set forth in such statement shall, for the purposes of this part, be deemed to be correct.

(e) Any extension of credit (1) to finance the purchase of aircraft in order to facilitate participation in the Civilian Pilot Training Program of the Civil Aeronautics Authority; or (2) to remodel or rehabilitate any dwelling or residence which the Defense Housing Coordinator, or his authorized agent, shall designate as being for "defense housing" as defined by the Coordinator. Information regarding the procedure for obtaining such a designation may be obtained through any Federal Reserve Bank or branch.

(f) Any extension of instalment sale credit which is to be repaid at approximately equal intervals and in approximately equal instalments, the last of which matures within three months after the first day of the calendar month next following such extension.

(g) Any extension of credit to a dealer in any listed article, whether a wholesaler or retailer, to finance the purchase of any such article for resale.

(h) Any extension of credit which is to be repaid within not more than twelve months and is made to a *bona fide* salesman of automobiles in order to finance the purchase of a new automobile to be used by him principally as a demonstrator.

(i) Any extension of credit which is for the purpose of financing a premium in excess of one year on a fire or casualty insurance policy if the proceeds are paid directly to the insurance agent, broker, or company issuing or underwriting the insurance and the extension of credit is fully secured by the unearned portion of the premium so financed.

(j) Any extension of instalment sale credit made on or before December 31, 1941, which (1) does not bring above $50 the total of the obligor's outstanding indebtedness to the Registrant arising out of extensions of instalment sale credit made on or after September 1, 1941, and (2) is to be repaid at approximately equal intervals and in approximately equal instalments the last of which matures within 9 months after the first day of the calendar month next following such extension.

(k) Any extension of instalment loan credit which is made to a person engaged in agriculture, or to a cooperative association of such persons, provided that the extension of instalment loan credit (1) is approved by the Farm Security Administrator, or his authorized agent, as being necessary for the rehabilitation of a needy farm family, or (2) is for general agricultural purposes and is not for the purpose of purchasing any listed article and not secured by any listed article purchased within 45 days before the extension of credit. In determining whether a loan meets the description of

[7] Effective October 1, 1941.

[8] Effective January 1, 1942.

subparagraph (2) above, a Registrant may accept in good faith a written statement signed by the obligor setting forth the facts relied upon to bring the loan within the description, and the facts set forth in such statement shall, for the purposes of this part, be deemed to be correct.*

§ 222.7 *Enforceability of contracts.* Pending an opportunity for the Board to observe this part in operation and except as may subsequently be otherwise provided, all of the provisions of this part are designated, pursuant to section 2 (d) of the Executive Order, as being for administrative purposes within the meaning of said section 2 (d) which provides that noncompliance with provisions of this part so designated shall not affect the right to enforce contracts.*

§ 222.8 *Renewals, revisions, and additions*—(a) *Renewals or revisions.** If any obligation or claim evidencing any extension of instalment sale credit or instalment loan credit is renewed or revised by a Registrant, the extension of instalment credit does not comply with the requirements of this part if such renewal or revision has the effect of changing the terms of repayment to terms which this part would not have permitted in the first instance for such credit; *Provided, however,* That this shall not prevent the Registrant from taking any such action if the Registrant accepts in good faith a statement of necessity as provided in paragraph (d) of this section and the extension of instalment credit provides for a schedule of repayment in conformity with this part as though it were a new extension of instalment credit; and *Provided further,* That nothing in this part shall be construed to prevent any Registrant from making any renewal or revision, or taking any action that it shall deem necessary in good faith, (1) with respect to any obligation of any member of the armed forces of the United States incurred prior to his induction into such service, or (2) for the Registrant's own protection in connection with any obligation which is in default and is the subject of *bona fide* collection effort by the Registrant.

(b) *Additions to outstanding credit.** If any Registrant makes any extension of instalment sale credit or instalment loan credit and such extension of instalment credit is consolidated with any obligation held by the Registrant evidencing any prior extension of instalment sale credit or instalment loan credit to the same obligor, neither extension of instalment credit complies with the requirements of this part unless the terms of the consolidated obligation are such as would have been necessary to meet the requirements of this part if the two extensions had not been so consolidated; *Provided, however,* That if the Registrant accepts in good faith a statement of necessity as provided in paragraph (d) of this section, the combined obligation may provide for a schedule of repayment in conformity with this part as though it were a new extension of instalment credit.

(c) *Credit to retire obligations held elsewhere.** Any extension of instalment credit, the proceeds of which a Registrant knows or has reason to know will be used in whole or in part to reduce or retire any extension of instalment sale credit or instalment loan credit not held by such Registrant, shall be subject to the requirements of paragraphs (a) or (b) of this section, including the provisos thereof, to the same extent as if the obligation being reduced or retired were held by the Registrant. In determining whether the proceeds of any extension of instalment credit will be so used, if the Registrant accepts in good faith a written statement with respect thereto signed by the obligor, such statement shall for the purposes of this part, be deemed to be correct.

(d) *Statement of necessity to prevent undue hardship.** The requirements of a statement of necessity, as provided for in paragraphs (a), (b), and (c), will be complied with only if the Registrant accepts in good faith a written statement on a form prescribed by the Board and signed by the obligor that the contemplated renewal, revision, or other action is necessary in order to avoid undue hardship upon the obligor resulting from contingencies which were unforeseen by the obligor at the time of obtaining the original extension of instalment credit or which were beyond the control of the obligor, which statement also sets forth briefly the principal facts and circumstances with respect to such contingencies and specifically states that the renewal, revision or other action is not pursuant to any preconceived plan, arrangement, or intention to evade or circumvent any requirement of this part.

(e) *Obligations outstanding on September 1, 1941.* The requirements of paragraphs (a), (b), and (c), do not apply to any renewal or revision of any obligation arising out of any extension of instalment sale credit or instalment loan credit made prior to September 1, 1941; but when any such outstanding obligation has been combined with any extension of instalment sale credit or instalment loan credit made on or after September 1, 1941, or has been the subject of any renewal or revision made on or after such date, such extension of instalment credit shall thereafter be treated for the purposes of this part as having been made on or after such date.

(f) *Side loan to make down-payment on listed article.* An extension of instalment credit which is limited in amount by this part to the maximum credit value of any listed article, does not comply with the requirements of this part if the Registrant making such extension of instalment credit knows or has reason to know that there is, or that there is to be, any other extension of credit in connection with the purchase of the listed article which would bring the total amount of credit extended in connection with such purchase beyond the maximum credit value of such article as specified in the Supplement: *Provided,* That if the Registrant accepts in good faith a written statement signed by the obligor that no such other extension exists or is to be made, such statement shall, for the purposes of this part, be deemed to be correct.

(g) *Evasive side agreements.* No extension of instalment credit complies with the requirements of this part if at the time it is made there is any agreement, arrangement, or understanding by which the obligor is to be enabled to make repayment on conditions inconsistent with those required by this part, or which would otherwise evade or circumvent, or conceal any evasion or circumvention of, any requirement of this part.*

§ 222.9 *Miscellaneous provisions*—(a) *Clerical errors.* Any failure to comply with this part resulting from a mistake in determining, calculating or recording any price, credit value, or extension of credit, or other similar matter, shall not be construed to be a violation of this part if the Registrant establishes that such failure to comply was the result of excusable error and was not occasioned by a regular course of dealing.

(b) *Calculating maximum maturity of contract.* In calculating the maximum maturity of a contract from the date on which any listed article was purchased or any loan was made, depending upon which such date is required by this part to be used for such calculation, a Registrant may, at his option, use as such date of purchase or loan any date not more than 15 days subsequent to the actual date thereof.

(c) *"Lay-away" plans.* With respect to any extension of instalment sale credit involving a *bona fide* "lay-away" plan, or other similar plan by which a purchaser makes one or more payments on an article before receiving delivery thereof, the Registrant may, for the purposes of this part, treat the extension of instalment sale credit as not having been made until the date of the delivery of the article to the purchaser.

(d) *Outstanding contracts.* Except as provided in § 222.8 (e) with respect to contracts made prior to September 1, 1941 which have been renewed, revised, or consolidated on or after such date, nothing in this part shall apply with respect to any valid contract made prior to such date.

(e) *Payments arising out of loans on instalment obligations.* With respect to any loan on the security of an obligation or claim which arises out of an extension of instalment credit, the prohibitions of this part shall be deemed to apply only to payments arising out of the obligation or claim rather than to payments arising out of the loan.

* Effective November 1, 1941.

(f) *Determining security for instalment loan credit.* In determining whether an extension of instalment loan credit is secured by any recently acquired listed article, as described in § 222.5 (a), the Registrant acting in good faith may disregard any such listed article which specifically secures some other extension of credit and secures the loan in question merely by reason of an "overlap agreement", "spreader clause", or other form of general over-all lien.

(g) *Records and reports.* Every Registrant shall keep such records and make such reports as the Board may from time to time require as necessary or appropriate for enabling it to perform its functions under the Executive Order.

(h) *Production of records.* Every Registrant, as and when required by the Board, shall furnish complete information relative to any transaction within the scope of the Executive Order, including the production of any books of account, contracts, letters, or other papers in connection therewith.

(i) *Transactions outside United States.* Nothing in this part shall apply with respect to any extension of credit made in Alaska, the Panama Canal Zone or any territory or possession outside the continental United States.

(j) *Right of registrant to impose stricter requirements.* Nothing in this part shall be construed to modify the right of any Registrant to refuse to extend credit, or to extend less credit than the amount permitted by this part, or to require that repayment be made within a shorter period than the maximum permitted by this part.*

§ 222.10 *Effective date of this part.* This part shall become effective September 1, 1941, except that §§ 222.4 (f) and 222.5 (c) (1) shall not become effective until October 1, 1941, §§ 222.8 (a), 222.8 (b), 222.8 (c) and 222.8 (d) shall not become effective until November 1, 1941, and §§ 222.4 (e) and 222.5 (c) (4) shall not become effective until January 1, 1942.*

§ 222.11 *Supplement*—(a) *Listed articles, maximum maturities, and maximum credit values.* For the purposes of this part the following maximum maturities and maximum credit values shall apply to the following list of articles:

Articles of consumers' durable goods (whether new or used)	Maximum maturity in months	Maximum credit value in percent of basic price
GROUP A		
1. Automobiles (passenger cars designed for the purpose of transporting less than 10 passengers, including taxicabs)	18	[1]
GROUP B		
1. Aircraft (including gliders)	18	66⅔
2. Power-driven boats, and motors designed for use therein, other than boats or motors designed specifically for commercial use	18	66⅔
3. Outboard boat motors	18	66⅔
4. Motorcycles (two- or three-wheel motor vehicles, including motor bicycles)	18	66⅔
GROUP C		
1. Mechanical refrigerators of less than 12 cubic feet rated capacity	18	80
2. Washing machines designed for household use	18	80
3. Ironers designed for household use	18	80
4. Suction cleaners designed for household use	18	80
5. Cooking stoves and ranges with less than seven heating surfaces	18	80
6. Heating stoves and space heaters designed for household use	18	80
7. Electric dishwashers designed for household use	18	80
8. Room-unit air conditioners	18	80
9. Sewing machines designed for household use	18	80
10. Radio receiving sets, phonographs, or combinations	18	80
11. Musical instruments composed principally of metals	18	80
GROUP D		
1. Household furnaces and heating units for furnaces (including oil burners, gas conversion burners, and stokers)	18	85
2. Water heaters designed for household use	18	85
3. Water pumps designed for household use	18	85
4. Plumbing and sanitary fixtures designed for household use	18	85
5. Home air conditioning systems	18	85
6. Attic ventilating fans	18	85
7. New household furniture (including ice refrigerators, bed springs, and mattresses but excluding floor coverings, wall coverings, draperies and bed coverings)[2]	18	90
8. Pianos and household electric organs	18	90
GROUP E		
1. Materials and services (other than materials listed in Group C or D) in connection with repairs, alterations or improvements upon urban, suburban, or rural real property in connection with existing structures provided the deferred balance does not exceed $1,000	18	[3]

[1] See paragraph (c) of this section.

[2] An article is not new if it has been used by a consumer.

[3] No limitation.

(b) *Basis price of listed articles other than automobiles.* The *basis price* of any listed article other than an automobile shall be the *bona fide* cash purchase price of the article and accessories purchased, including any sales taxes thereon and any *bona fide* delivery and installation charges, *minus* the amount of any allowance made by the seller for any article traded-in by the purchaser (including as such a trade-in anything which the seller buys or arranges to have bought from the purchaser at or about the time of the purchase of the listed article).

(c) *Maximum credit value of automobiles.* For the purposes of §§ 222.4 and 222.5 (a) of this part:

(1) The maximum credit value of a new automobile shall be 66⅔ percent of the *bona fide* cash purchase price of the automobile and accessories (including any sales taxes thereon and any *bona fide* delivery charges) but in no event to exceed 66⅔ percent of the sum of the following items:

(i) The advertised delivered price of the automobile (with standard equipment) at the factory;

(ii) Transportation charges established by the manufacturer from factory to point of delivery;

(iii) Any Federal, State or local taxes not included in the foregoing; and

(iv) Any *bona fide* charges for delivery or accessories not included in the foregoing items.

In case the automobile is sold for delivery at the factory, by a dealer in a given place to a resident of such place or its vicinity who actually intends to bring the automobile to such place or vicinity and use it there, an amount equal to the freight from the factory to such place may be included.

(2) For any used automobile the maximum credit value, until otherwise provided, shall be 66⅔ per cent of the *bona fide* cash purchase price (including any sales taxes thereon).

(d) *Instalment loan credit subject to § 222.5 (b).* The maximum maturity of any extension of instalment loan credit of $1,000 or less subject to § 222.5 (b) shall be 18 months.*

The above part was adopted by the Board of Governors of the Federal Reserve System on August 21, 1941, to become effective (with the exceptions noted in § 222.10) September 1, 1941.

[SEAL] S. R. CARPENTER,
Assistant Secretary.

[F. R. Doc. 41-6426; Filed, August 26, 1941; 12:46 p. m.]

TITLE 14—CIVIL AVIATION

CHAPTER I—CIVIL AERONAUTICS BOARD

SPECIAL REGULATION

At a session of the Civil Aeronautics Board held at its office in Washington, D. C., on the 26th day of August 1941.

It appearing that:

(1) The General Aircraft Corporation is prepared to conduct a program to demonstrate the military possibilities of two-control, nonspinnable aircraft equipped with tricycle landing gear;

(2) This program is to be conducted with certain personnel of various branches of the United States Army and operations will be based on fields under the supervision of the United States Army;

(3) This program is also designed to demonstrate the efficiency and safety in operation of two-control, nonspinnable aircraft with tricycle landing gear and to demonstrate the simplicity and reduced cost of learning to fly aircraft of this type;

(4) The Civil Air Regulations require that a student shall have had eight hours of dual flight instruction prior to his first solo flight and at least eight hours of solo flight time prior to his first cross-country solo flight;

(5) Its action in this matter is desirable in the public interest, the interest of national defense and the promotion of safety in air commerce.

Now, therefore, the Civil Aeronautics Board, acting pursuant to the authority

vested in it by the Civil Aeronautics Act of 1938, as amended, particularly sections 205, 601 and 602 of said Act, makes and promulgates the following regulation:

Notwithstanding any provisions of the Civil Air Regulations, for a period of 60 days from August 26, 1941, any student who is a member of the military forces of the United States, taking instruction on aircraft of the type known as the Skyfarer, manufactured by the General Aircraft Corporation, having two controls, tricycle landing gear and type certificated by the Administrator as characteristically incapable of spinning, may fly solo from an airport under the supervision of the United States Army and make cross-country solo flights within a 50-mile radius of such airport whenever in the opinion of his instructor he is qualified to do so and the instructor has made a notation to that effect on the student pilot certificate: *Provided*, That no student shall solo a conventional three-control airplane until he has obtained at least four additional hours of dual instruction on conventional three-control airplanes, including the recovery from spins, and the instructor shall make a notation to that effect on his student pilot certificate.

By the Civil Aeronautics Board.

[SEAL] THOMAS G. EARLY,
Secretary.

[F. R. Doc. 41-6461; Filed, August 27, 1941; 11:52 a. m.]

TITLE 32—NATIONAL DEFENSE

CHAPTER VI—SELECTIVE SERVICE SYSTEM

AUTHORIZING THE STATE DIRECTOR OF SELECTIVE SERVICE OF NEW JERSEY TO ORDER ADDITIONAL OR ALTERNATIVE PHYSICAL EXAMINATIONS

By virtue of the provisions of the Selective Training and Service Act of 1940 (54 Stat. 885) and the authority vested in me by the rules and regulations prescribed by the President thereunder, and more particularly the provisions of Section XLVIII of the Selective Service Regulations, I hereby authorize the State Director of Selective Service of New Jersey to direct any local board in the State of New Jersey to order registrants to appear for and submit to a physical examination by an Examining Board of the armed forces, either in addition to or in lieu of the physical examination provided for in Volume Three, "Classification and Selection."

In proceeding under this authorization, the State Director of Selective Service of New Jersey will be guided by the provisions of Section XLVIII of the Selective Service Regulations. The right of all registrants to an appeal shall be preserved and no registrant shall be ordered to report for induction on less than 10 days' notice as provided in Paragraph 415 of the Selective Service Regulations, as amended.

The State Director of Selective Service of New Jersey shall submit to the Dierctor of Selective Service copies of plans, forms, and directives prescribed for use by him in carrying out this authorization.

LEWIS B. HERSHEY,
Director.

AUGUST 25, 1941.

[F. R. Doc. 41-6428; Filed, August 26, 1941; 2:41 p. m.]

AUTHORIZING THE STATE DIRECTOR OF SELECTIVE SERVICE OF DELAWARE TO ORDER ADDITIONAL OR ALTERNATIVE PHYSICAL EXAMINATIONS

By virtue of the provisions of the Selective Training and Service Act of 1940 (54 Stat. 885) and the authority vested in me by the rules and regulations prescribed by the President thereunder, and more particularly the provisions of Section XLVIII of the Selective Service Regulations, I hereby authorize the State Director of Selective Service of Delaware to direct any local board in the State of Delaware to order registrants to appear for and submit to a physical examination by an Examining Board of the armed forces, either in addition to or in lieu of the physical examination provided for in Volume Three, "Classification and Selection."

In proceeding under this authorization, the State Director of Selective Service of Delaware will be guided by the provisions of Section XLVIII of the Selective Service Regulations. The right of all registrants to an appeal shall be preserved and no registrant shall be ordered to report for induction on less than 10 days' notice as provided in Paragraph 415 of the Selective Service Regulations, as amended.

The State Director of Selective Service of Delaware shall submit to the Director of Selective Service copies of plans, forms, and directives prescribed for use by him in carrying out this authorization.

LEWIS B. HERSHEY,
Director.

AUGUST 25, 1941.

[F. R. Doc. 41-6429; Filed, August 26, 1941; 2:41 p. m.]

AUTHORIZING THE STATE DIRECTOR OF SELECTIVE SERVICE OF NEW YORK TO ORDER ADDITIONAL OR ALTERNATIVE PHYSICAL EXAMINATIONS

By virtue of the provisions of the Selective Training and Service Act of 1940 (54 Stat. 685) and the authority vested in me by the rules and regulations prescribed by the President thereunder, and more particularly the provisions of Section XLVIII of the Selective Service Regulations, I hereby authorize the State Director of Selective Service of New York to direct any local board in the State of New York to order registrants to appear for and submit to a physical examination by an Examining Board of the armed forces, either in addition to or in lieu of the physical examination provided for in Volume Three, "Classification and Selection."

In proceeding under this authorization, the State Director of Selective Service of New York will be guided by the provisions of Section XLVIII of the Selective Service Regulations. The right of all registrants to an appeal shall be preserved and no registrant shall be ordered to report for induction on less than 10 days' notice as provided in Paragraph 415 of the Selective Service Regulations, as amended.

The State Director of Selective Service of New York shall submit to the Director of Selective Service copies of plans, forms, and directives prescribed for use by him in carrying out this authorization.

LEWIS B. HERSHEY,
Director.

AUGUST 25, 1941.

[F. R. Doc. 41-6430; Filed, August 26, 1941; 2:41 p. m.]

[No. 26]

ORDER PRESCRIBING FORMS

By virtue of the Selective Training and Service Act of 1940 (54 Stat. 885) and the authority vested in me by the rules and regulations prescribed by the President thereunder, and more particularly the provisions of paragraph 163 and appendix A to Volume One of the Selective Service Regulations, I hereby prescribe the following change in DSS forms:

Revision of DSS Form 207, accumulative illiteracy report, effective immediately upon the filing hereof with the Division of the Federal Register. Upon receipt of the revised DSS Form 207, the use of the original DSS Form 207 will be discontinued and all unused copies thereof will be destroyed.

The foregoing revision and discontinuance shall, effective immediately upon the filing thereof with the Division of the Federal Register, become a part of Appendix A to Volume One, Selective Service Regulations.

LEWIS B. HERSHEY,
Director.

AUGUST 25, 1941.

[F. R. Doc. 41-6427; Filed, August 26, 1941; 2:41 p. m.]

CHAPTER IX—OFFICE OF PRODUCTION MANAGEMENT

SUBCHAPTER B—PRIORITIES DIVISION

PART 963—SILK

Interpretation of General Preference Order No. M-22

The following official interpretation is hereby issued by the Director of Priorities with respect to § 963.1, *General pref-*

erence order No. M–22, dated July 26, 1941, as amended on August 2, 1941, and on August 12, 1941.[1]

Paragraph (b) of said § 963.1, *General preference order No. M–22*, as amended, which reads as follows:

(b) *Restrictions on deliveries.* No Person shall hereafter make delivery, and no Person shall accept delivery, of Raw Silk unless specifically authorized by the Director of Priorities, *Provided, however*, That deliveries of imported Raw Silk may be made without restriction to any Person importing the same, either directly or through an agent, and *Provided further*, That deliveries of Raw Silk may be made without restriction by or to Defense Supplies Corporation, or pursuant to its instructions.

prohibits the physical delivery of Raw Silk from one person to another or from one location to another, but does not prohibit changes of title by transfers of negotiable warehouse receipts for Raw Silk, provided no change takes place in the custody, possession, or location of such Raw Silk.

Issued this 26th day of August 1941.

E. R. STETTINIUS, Jr.,
Director of Priorities.

[F. R. Doc. 41–6442; Filed, August 27, 1941; 11:22 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

CHAPTER II—CORPS OF ENGINEERS, WAR DEPARTMENT

PART 204—DANGER ZONE REGULATIONS[2]

Pursuant to the provisions of section 7 of the River and Harbor Act approved August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), the following regulations are hereby prescribed to govern the use and navigation of the waters of the Atlantic Ocean near Murrells Inlet, South Carolina, comprising an aerial gunnery target range for army aircraft:

§ 204.57 *Waters of the Atlantic Ocean; Army Air Corps, Aerial Gunnery Target Range near Murrells Inlet, South Carolina.*

THE DANGER ZONE

(a) the target range covers a strip ten miles wide located approximately five miles offshore extending between Pawleys Island, South Carolina, and White Point Swash, a distance of about thirty miles. The geographic positions locating the corners of the range are as follows:

NE corner.....Lat. 33°39', long. 78°35'.
NW corner.....Lat. 33°44', long. 78°43'.
SE corner.....Lat. 33°17', long. 78°56'.
SW corner.....Lat. 33°23', long. 79°05'.

THE REGULATIONS

(b) (1) The fact that aerial target practice is to take place over the designated area shall be advertised to the public through the usual media for the dissemination of information. Inasmuch as such practice is likely to be engaged in throughout the year without regard to season, such advertising of firing shall be repeated at frequent intervals which shall not exceed three months and which shall be more frequent when, in the opinion of the Commanding Officer responsible for the use of the range, such frequent repetition is necessary in the interests of public safety.

(2) Prior to the conducting of each target practice the area shall be patrolled by Army aircraft to insure that no watercraft are within the dangerous area and any such watercraft seen in the vicinity shall be warned by means of signals that target practice is about to take place. The patrol aircraft shall employ the method of warning known as "buzzing" which consists of low flight by the airplane and repeated opening and closing of the throttle.

(3) Any such watercraft shall, upon being so warned, immediately leave the vicinity and shall, until the conclusion of the practice, remain at such a distance that it will be safe from falling projectiles.

(4) All aircraft and watercraft shall be presumed to know their whereabouts by distances and directions from landmarks or other topographical features along the shore.

(5) These regulations shall be enforced by the Commanding Officer, Charlotte Army Air Base, Charlotte, North Carolina, and such agencies as he may designate. (Sec. 7, River and Harbor Act, Aug. 8, 1917, 40 Stat. 266; 33 U.S.C. 1) [Regs. Aug. 18, 1941 (E. D. 7195 (Atlantic Ocean—South Carolina)—24/9)]

[SEAL] J. A. ULIO,
Brigadier General,
Acting The Adjutant General.

[F. R. Doc. 41–6465; Filed, August 27, 1941; 12:01 p. m.]

TITLE 50—WILDLIFE

CHAPTER I—FISH AND WILDLIFE SERVICE

SUBCHAPTER Q—ALASKA COMMERCIAL FISHERIES

PART 223—SOUTHEASTERN ALASKA AREA, WESTERN DISTRICT SALMON FISHERIES

Section 223.9 is hereby amended to read as follows:

§ 223.9 *Closed seasons, south of Point Couverden.* Commercial fishing for salmon, other than trolling south of a true line eastward from the southeastern extremity of Point Couverden is prohibited prior to 6 o'clock antemeridian July 5, from 6 o'clock postmeridian August 20 to 6 o'clock antemeridian October 1, and for the remainder of each calendar year after 6 o'clock postmeridian October 20. (Sec. 1, 44 Stat. 752; 48 U.S.C. 221)

PART 224—SOUTHEASTERN ALASKA AREA, EASTERN DISTRICT SALMON FISHERIES

Section 224.9 is hereby amended to read as follows:

§ 224.9 *Seasonal closing dates, salmon fishing.* Commercial fishing for salmon, other than trolling, is prohibited for the remainder of each calendar year after 6 o'clock postmeridian August 20: *Provided*, That this prohibition shall not apply to the use of drift gill nets in Taku Inlet from 6 o'clock antemeridian September 5 to 6 o'clock postmeridian September 30: *And provided further*, That this prohibition shall not apply to commercial fishing for salmon south of 58 degrees north latitude from 6 o'clock antemeridian October 1 to 6 o'clock postmeridian October 20. (Sec. 1, 44 Stat. 752; 48 U.S.C. 221)

JOHN J. DEMPSEY,
Acting Secretary of the Interior.

AUGUST 18, 1941.

[F. R. Doc. 41–6348; Filed, August 27, 1941; 10:11 a. m.]

Notices

WAR DEPARTMENT.

[Contract No. W 7124 qm–1; O. I. No. 1–42]

SUMMARY OF FIXED-FEE CONTRACT FOR ARCHITECT-ENGINEER SERVICES

ARCHITECT-ENGINEER: R. H. HUNT COMPANY, JAMES BUILDING, CHATTANOOGA, TENNESSEE

Amount fixed fee: $39,178.00.

Estimated construction cost (Art. V–2): $5,215,790.00.

Type of construction project: Barrage Balloon Training Center.

Location: Paris, Tennessee.

Type of service: Architect-Engineer.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to, Procurement Authority No. QM 23317 C. B. U. & A. P–99 A–0540–N the available balance of which is sufficient to cover the cost of same.

This contract,[1] entered into this 26th day of July 1941.

ARTICLE I. *Description of the work.* The Architect-Engineer shall perform all the necessary services provided under this contract for the following described project: The construction of facilities for a Barrage Balloon Training Center including necessary buildings, temporary structures, utilities and appurtenances thereto, at Paris, Tennessee.

ART. III. *Data to be furnished by the Government.* The Government will furnish the Architect-Engineer essential schedules of preliminary data, layout sketches, and other essential information

[1] F.R. 3731, 3892, 4046.
[2] § 204.57 is added.

[1] Approved by the Under Secretary of War July 31, 1941.

respecting sites, topography, soil conditions, outside utilities and equipment as may be available for the preparation of preliminary sketches and the development of final drawings and specifications.

ART. V. * * * *Estimated cost of construction.* The present preliminary estimated construction cost of the project on which the services of this contract are based is approximately five million two hundred fifteen thousand seven hundred ninety dollars ($5,215,790.00) exclusive of Architect-Engineer's fixed fee.

ART. VI. *Fixed-fee and reimbursement of expenditures.* In consideration for his undertakings under the contract, the Architect-Engineer shall be paid the following:

a. A fixed fee in the amount of thirty nine thousand one hundred seventy eight dollars ($39,178.00) which shall constitute complete compensation for the Architect-Engineer's services.

b. In addition to the payment of the fixed fee as specified herein the Architect-Engineer will be reimbursed for such of his actual expenditures in the performance of the work as may be approved or ratified by the Contracting Officer.

ART. VIII. *Method of payment.* Payments of reimbursable cost items and of 90% of the amount of the Architect-Engineer's fee earned shall be made on vouchers approved by the Contracting Officer on standard forms, as soon as practicable after the submission of statements, supported by original certified payrolls, receipted bills for all expenses including materials, supplies and equipment, rentals and all other supporting data. Upon completion of the project and its final acceptance the Architect-Engineer shall be paid the unpaid balance of any money due the Architect-Engineer hereunder.

ART. IX. *Drawings and other data to become property of Government.* All drawings, designs and specifications are to become the property of the Government on completion.

ART. XII. *Changes in scope of project.* The Contracting Officer may, at any time, by a written order, issue additional instructions, require additional work or services, or direct the omission of work or services covered by this contract.

ART. XIII. *Termination for cause or for convenience of the Government.* The Government may terminate this contract at any time and for any cause by a notice in writing from the Contracting Officer to the Architect-Engineer.

This contract is authorized by the following law: Public No. 139—77th Congress, approved June 30, 1941.

FRANK W. BULLOCK,
Major, Signal Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 41-6431; Filed, August 26, 1941; 3:42 p. m.]

[Contract No. W 7124 qm-2; O. I. No. 1-42]

SUMMARY OF FIXED FEE CONSTRUCTION CONTRACT

CONTRACTORS: ROCK CITY CONSTRUCTING CO., 135 4TH AVE., N., NASHVILLE, TENNESSEE, AND T. M. STRIDER & COMPANY, 314 COTTON STATES BUILDING, NASHVILLE, TENNESSEE

Contract for: Construction of a barrage balloon training center.

Location: Paris, Tennessee.

Fixed fee: $124,750.

Estimated construction cost exclusive of fixed fee: $5,091,040.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the following procurement authorities, the available balances of which are sufficient to cover the cost of the same: QM 23315 C. B. U. & A P 99 A-0540-n.

This contract,[1] entered into this 26th day of July 1941.

ARTICLE I. *Statement of work.* The constructor shall, in the shortest possible time, furnish the labor, materials, tools, machinery, equipment, facilities, supplies not furnished by the Government, and services, and do all things necessary for the completion of the following work:

The construction of a Balloon Barrage Training Center at or near Paris, Tennessee, including necessary buildings, temporary structures, utilities, and appurtenances thereto at Paris, Tennessee.

It is estimated that the construction cost of the work covered by this contract will be five million ninety-one thousand and forty dollars ($5,091,040) exclusive of the Constructor's fee.

In consideration for his undertaking under this contract the Constructor shall receive the following:

(a) Reimbursement for expenditures as provided in Article II.

(b) Rental for Constructor's equipment as provided in Article II.

(c) A fixed fee in the amount of one hundred twenty-four thousand seven hundred fifty dollars ($124,750) which shall constitute complete compensation for the Constructor's services, including profit and all general overhead expenses.

The Contracting Officer may, at any time, without notice to the sureties, if any, by a written order, issue additional instructions, require additional work or services, or direct the omission of work or services covered by this contract.

The title to all work, completed or in the course of construction shall be in the Government. Likewise, upon delivery at the site of the work or at an approved storage site and upon inspection and acceptance in writing by the Contracting Officer, title to all materials, tools, machinery, equipment and supplies for which the Constructor shall be entitled to be reimbursed under Article II, shall vest in the Government.

ART. III. *Payments—Reimbursement for cost.* The Government will currently reimburse the Constructor for expenditures made in accordance with Article II upon certification to and verification by the Contracting Officer of the original of signed payrolls, for labor, the receipted invoices for materials, and such other documents as the Contracting Officer may require. Generally, reimbursement will be made weekly but may be made at more frequent intervals if the conditions so warrant.

Rental for constructor's equipment. Rental as provided in Article II for such construction plant or parts thereof as the Constructor may own and furnish shall be paid monthly upon presentation of proper vouchers.

Payment of the fixed fee. Ninety percent (90%) of the fixed fee set out in Article I shall be paid as it accrues, in monthly installments based upon the percentage of the completion of the work as determined from estimates submitted to and approved by the Contracting Officer.

Final payment. Upon completion of the work and its final acceptance in writing by the Contracting Officer, the Government shall pay to the Constructor the unpaid balance of the cost of the work determined under Article II hereof and of the fee.

ART. VI. *Termination of contract by Government.* The Government may terminate this contract at any time by a notice in writing from the Contracting Officer to the Constructor.

This Contract is authorized by the following law: Public No. 139, 77th Congress, Approved June 30, 1941.

FRANK W. BULLOCK,
Major, Signal Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 41-6432; Filed, August 26, 1941; 3:42 p. m.]

[1] Approved by the Under Secretary of War July 29, 1941.

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. 1670-FD]

IN THE MATTER OF THE PITTSBURGH & MIDWAY COAL MINING COMPANY, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

I

A complaint dated June 11, 1941, pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937 (the "Act") and § 304.14 of the Rules and Regulations for the Registration of Distributors was duly filed with the Division on June 19, 1941 by the Bituminous Coal Producers Board for District No. 15, complainant, alleging wilful violation by the defendant as a code member and

registered distributor of the Bituminous Coal Code or the rules and regulations thereunder, including the Rules and Regulations for the Registration of Distributors as follows:

(1) Violated Rule 7, section VI of the Marketing Rules and Regulations by failing to file with the Statistical Bureau copies of contracts as required thereby.

(2) Violated Rule 1 (I) section VII of the Marketing Rules and Regulations by failing to charge interest on overdue accounts as required thereby.

(3) Violated Rule 4, section V, Rule 3, section VI, Rules 1, 2, 4, 5 and 6, section VIII of the Marketing Rules and Regulations and paragraphs (b) and (e) of the agreement by registered distributor by having entered into spot orders and contracts on a penalty and premium basis and used analyses without having filed same with the Statistical Bureau as required by said Marketing Rules and Regulations.

(4) Violated Rule 3 of section VIII, Rule 8 of section VIII of the Marketing Rules and Regulations and paragraphs (e) and (f) of said agreement by registered distributor by failing to file with the Statistical Bureau invoices and contracts reflecting the true preparation or treatment of all coal sold.

(5) Violated Rule 1 of section X of the Marketing Rules and Regulations and paragraphs (e) and (f) of said agreement by registered distributor by failing to file with the Statistical Bureau full information covering adjustments and reductions made in the sale price of coal.

(6) Violated Rules 5, 6 and 9 of section II, Rules 4, 6, 7, 11, 12 and 13 of section XIII of the Marketing Rules and Regulations and paragraphs (c) and (e) of the said agreement by registered distributor by allowing various retailers unearned commissions on coal sold through the Pittsburgh and Midway Coal Mining Company to numerous industrial consumers.

II

The Bituminous Coal Division finds it necessary in the proper administration of the Act to determine

(a) whether or not the said Pittsburg and Midway Coal Mining Company, a registered distributor, Registration No. 7344, the above-named defendant, whose address is Pittsburg, Kansas located in District No. 15 has violated any of the said provisions of the Act, Marketing Rules and Regulations, Rules and Regulations for the Registration of Distributors or the Agreement, dated April 5, 1939, executed by the defendant pursuant to Order of the National Bituminous Coal Commission dated March 24, 1939 in Docket No. 12, which was adopted by the Bituminous Coal Division on July 1, 1939 (hereinafter referred to as the "Agreement"); and

(b) whether or not the registration of said distributor should be revoked or suspended or other appropriate penalties imposed.

For said purposes notice is given that the Division has information to the effect hereinafter set forth in paragraphs numbered (1) to (8), inclusive:

(1) That defendant in violation of Rule 7 of section VI of the Marketing Rules and Regulations and paragraphs (e) and (f) of the Agreement, during the period from October 1, 1940 through May 11, 1941, failed and refused to file with the Statistical Bureau, or Bureaus, true copies of its various contracts for the sales of coal and agreements for modification therof within fifteen (15) business days from the dates of execution of such contracts and agreements for modification. Neither were any reports of the commitments involved filed within fifteen (15) business days from the dates of the commitments. During said period the defendant sold large quantities of coal pursuant to such contracts, none of which were filed with the Statistical Bureau nor report thereof made, as required by said Rule 7 of section VI of the Marketing Rules and Regulations, prior to May 12, 1941, upon which date copies of sixty (60) such contracts were handed to an officer of the Bituminous Coal Division.

(2) That defendant, during said period, in violation of Rule 1 (I) of section VII of the Marketing Rules and Regulations and of paragraph (e) of the Agreement failed to charge interest at the rate of 5 percent per annum on approximately 1500 accounts which were not paid on the due dates thereof and in connection with which the due dates were extended by agreement of the defendant and the purchasers of its coal, express or implied.

(3) That defendant, during said period, violated Rule 3 of section V of the Marketing Rules and Regulations and paragraphs (e) and (f) of the Agreement by accepting numerous spot orders for coal from numerous purchasers without filing with the Statistical Bureau copies of such spot orders or confirmations thereof within ten (10) business days after the date of the making of such spot orders or the dates of the written confirmations thereof.

(4) That defendant, during said period, violated Rule 4 of section V and Rules 1, 2, 4, 5 and 6 of section VIII of the Marketing Rules and Regulations, section 4 II (e) of the Act and paragraphs (b) and (e) of the Agreement in the sales or offers for sale of coal produced by a code member or code members, including the defendant, in that it (1) utilized analyses of coal sold by it and failed to make reports to the Statistical Bureau or the District Board of such analyses as were used in connection with the sales of such coal, (2) failed to accompany such analyses by statements to the effect that the analyses had been properly filed with the Statistical Bureau and the District Board, (3) accepted adjustments in the price of coal sold by it based on analyses of such coal by or on behalf of the consumers without having filed with the Statistical Bureau and the District Board copies of such analyses not later than the last day of the month following the month in which the adjustments were made, (4) accepted orders for the sale of coal by it which orders were made upon a penalty or a premium and penalty basis without having filed with the Statistical Bureau and the District Board copies of analyses accompanied by statements setting forth in full the terms of the premium and penalty provisions of the proposed contracts or orders, and (5) entered into and performed agreements made upon a penalty or a premium and penalty basis which permitted the sale of coal at aggregate contract prices below the applicable minimum prices therefor.

One such order accepted without complying with said rules and the Agreement was the purchase order for coal of the Kansas City Power and Light Company, Kansas City, Missouri, dated February 11, 1941, which was accepted by the defendant on February 13, 1941. Subsequently, on April 16, 1941 an adjustment was made, based on the analyses of the various shipments which reduced the net price received below the effective minimum price for such coal. Contracts for the sale of coal on which the price thereof was affected by the analyses included one between the defendant and the Springfield City Water Company, Springfield, Missouri, which required deliveries of coal up to March 31, 1941; and another with the Carnation Company, Oconomowoc, Wisconsin, which requires deliveries of coal thereunder to December 15, 1941.

(5) That defendant, during said period, violated paragraph 8 of section 4 II (i) of the Act, section 4 II (e) of the Act, Rule 8 of section XIII of the Marketing Rules and Regulations and paragraphs (b), (c) and (e) of the Agreement by mispresenting the true preparation and treatment of coal sold by it to the Gooch Milling and Elevator Company, Lincoln, Nebraska. The contract, for the sale of said coal, among other things, provided for the delivery of washed screenings and the coal actually delivered pursuant thereto was washed and oil treated. Said coal was sold at less than the effective minimum price for washed and oil treated screenings.

(6) That defendant violated section 4 II (e) of the Act, Rule 1 of section X of the Marketing Rules and Regulations and paragraphs (b), (e) and (f) of the Agreement by failing to file full information concerning numerous claims for adjustments and reductions for substandard preparation or quality as a result of which claims reductions and adjustments were made on coal sold to various and sundry consumers, which reduced the sales prices thereof below the effective minimum prices for such coal. Full information concerning such adjustments and reductions were not filed with the Statistical Bureau within

twenty-four (24) hours following the notice of claims for such adjustments as required. Such adjustments were made on the coal sold to the Emporia Ice and Cold Storage Company, Norfolk Packing Company, Perry Frazier, Dietz Sons, and various and sundry other customers on coal shipped on various dates from October 9, 1940 through February 24, 1941.

(7) That defendant, during said period from October 1, 1940 through May 11, 1941, violated paragraphs 6, 7, 11 and 13 of section 4 II (i) of the Act, section 4 II (e) of the Act, Rules 6, 7, 11 and 13 of the Marketing Rules and Regulations, and paragraphs (b), (c) and (e) of the Agreement by allowing numerous retailers unearned commissions on coal sold to various industrial consumers at compensations obviously disproportionate to the ordinary value of the services rendered and whose employment as agents in connection with the sales of such coal were made with the primary intention and purpose of securing preferment with the purchasers of said coal. Commissions ranging from 10 cents a ton to 50 cents a ton were allowed such retailers, whereas they rendered little or no services of value in connection with the sales of the coal involved.

(8) That defendant, during said period, violated section 4 II (e) of the Act and (b) of the Agreement by selling a substantial amount of coal to the Western Tabley and Stationery Company, St. Joseph, Missouri, and to the Gooch Milling and Elevator Company, Lincoln, Nebraska, at the effective minimum price of such coal for industrial use, whereas the coal involved was not used for industrial purposes as defined in the Schedule of Effective Minimum Prices for District No. 15 but was used for domestic and commercial purposes as defined in said schedule. Such coal was thus sold at a price below the established effective minimum price therefor.

III

It is ordered, That pursuant to sections 4 II (j) and 5 (b) of the Act and § 304.14 of the Rules and Regulations for the Registration of Distributors, a hearing in respect to all of the matters hereinabove stated be held on October 13, 1941, at 10 a. m. at a hearing room of the Bituminous Coal Division at 538 Dwight Building, Kansas City, Missouri, to determine whether or not the code membership of defendant shall be revoked and whether or not the registration of defendant as a registered distributor shall be revoked or suspended, or other appropriate penalties imposed.

It is further ordered, That Edward J. Hayes or any other officer or officers of the Bituminous Coal Division designated by the Director, or Acting Director, thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under § 301.-123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, and Section VIII, Paragraph b of the Rules of Practice and Procedure Before the Commission, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given that answer to the charges alleged herein must be filed with the Bituminous Coal Division at its Washington Office or with any one of the Statistical Bureaus of the Division, within twenty (20) days after date of service hereof on the defendant; and that if it fails to file an answer within such period, unless the Director or the presiding officer shall otherwise order, it shall be deemed to have admitted the allegations herein recited and to have consented to the entry of an appropriate order or orders on the basis of the facts alleged.

All persons are hereby notified that the hearing in the above-entitled matter and orders entered therein may concern, in addition to the matters specifically recited, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

Dated: August 26, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-6434; Filed, August 27, 1941; 10:10 a. m.]

[Docket No. A-964]

PETITION OF SWANTON BIG VEIN COAL COMPANY, A CODE MEMBER IN DISTRICT NO. 1, FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR COALS OF THE SWANTON NO. 1 MINE (MINE INDEX NO. 837) OF THE SWANTON BIG VEIN COAL COMPANY, PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

NOTICE OF AND ORDER FOR POSTPONEMENT OF HEARING

The above-entitled matter having been scheduled for a public hearing on August 29, 1941, at 10 a. m. at a hearing room of the Bituminous Coal Division, Washington, D. C.; and

The Swanton Big Vein Coal Company, petitioner herein, having filed with the Division a motion for postponement of the said hearing to a date one week from August 29, 1941; and

The Director finding that a reasonable showing of necessity for such postponement has been made by the aforesaid petitioner.

Now, therefore, it is ordered, That the hearing in the above-entitled matter be, and it hereby is, postponed from August 29, 1941, at 10 a. m. until September 5, 1941, at 10 a. m. at a hearing room of the Bituminous Coal Division before the Examiner heretofore designated.

Dated: August 26, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-6435; Filed, August 27, 1941; 10:10 a. m.]

[Docket No. 1778-FD]

IN THE MATTER OF MT. PERRY COAL COMPANY, DEFENDANT

CORRECTION OF TYPOGRAPHICAL ERROR IN NOTICE OF AND ORDER FOR HEARING

A typographical error occurred in Notice of and Order for Hearing, dated August 9, 1941,[1] in the above-entitled matter.

In the seventh paragraph, fifth line, the figure denoting the market area is "4", whereas the figure should be "14".

Now, therefore, it is ordered, That the figure "4" in the fifth line, seventh paragraph, of said Notice of and Order for Hearing dated August 9, 1941, be, and the same hereby is, deleted and the figure "14" inserted in place thereof.

Dated: August 26, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-6436; Filed, August 27, 1941; 10:10 a. m.]

[Docket No. 362-FD]

IN THE MATTER OF THE APPLICATION OF SOUTHERN ILLINOIS COALS, INCORPORATED, FOR PROVISIONAL APPROVAL AS A MARKETING AGENCY, AND IN RE: THE MODIFICATION AND AMENDMENT OF THE ORDER GRANTING APPLICANT PROVISIONAL APPROVAL AS A MARKETING AGENCY

ORDER AMENDING ORDER TO SHOW CAUSE AND NOTICE OF HEARING

An Order to Show Cause and Notice of Hearing to which was attached an exhibit, designated "Exhibit A", having been issued in the above-entitled matter on July 28, 1941; and

It appearing appropriate that paragraph numbered "1" of said Exhibit A be amended;

[1] 6 F.R. 4016.

Now therefore it is ordered, That paragraph numbered "1" of said Exhibit A is amended to read as follows:

Applicant shall restrict its activities to the sale of bituminous coal produced in the Southern Illinois Field, including the following counties in the State of Illinois: Franklin, Jefferson, Saline and Williamson, and that portion of Perry County lying east of the DuQuoin anticline; and to such other incidental activities which are necessary for that purpose.

Dated: August 26, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-6437; Filed, August 27, 1941; 10:10 a. m.]

General Land Office.

STOCK DRIVEWAY WITHDRAWAL NO. 56, ARIZONA NO. 2, MODIFIED AND DEFINED

It appearing that Stock Driveway Withdrawal No. 56, Arizona No. 2, should be reestablished in part and modified by adding certain lands and excluding certain lands, it is ordered as follows:

1. The departmental order of March 2, 1939, excluding certain lands therefrom is hereby vacated so far as it affects the following-described public lands:

GILA AND SALT RIVER MERIDIAN

T. 11 N., R. 2 E., N½ sec. 4, N½ and SW¼ sec. 5, W½ sec. 8, sec. 17, NE¼NW¼, SE¼SW¼, SW¼SE¼, sec. 23, NW¼NE¼, S½NE¼ and SE¼, sec. 26;
aggregating 2,166.41 acres.

2. The hereinafter described public lands, which are hereby classified under the authority of section 7 of the act of June 28, 1934, as amended by the act of June 26, 1936, 48 Stat. 1272, 49 Stat. 1976; 43 U.S.C. 315f, as necessary and suitable for the purpose, are hereby withdrawn, under and pursuant to the provisions of section 10 of the act of December 29, 1916, as amended by the act of January 29, 1929, 39 Stat. 865, 45 Stat. 1144; 43 U.S.C. 300, excepting any mineral deposits therein, from all disposal under the public land laws as an addition to this driveway, subject to valid existing rights and to certain power transmission line reservations affecting a portion of the land:

T. 12 N., R. 1 E., SE¼ sec. 23, S½ sec. 24, N½NE¼ and lot 1 sec. 26;
T. 9 N., R. 2 E., N½NE¼ and NW¼ sec. 34;
aggregating 822.90 acres.

Any mineral deposits in the above-described withdrawn lands shall be subject to location and entry only in the manner prescribed by the Secretary of the Interior in accordance with the provisions of the aforesaid act of January 29, 1929, and existing regulations.

3. The departmental orders of February 4, 1919, June 30, 1920, June 19, 1924, May 21, 1927, June 19, 1928, May 3, 1929, July 24, 1930, June 11, 1932, and November 3, 1933, as adjusted to subsequent surveys, establishing and modifying this stock driveway are hereby revoked so far as they affect the following-described lands:

T. 8 N., R. 1 E., N½ of secs. 14 and 15, secs. 17, 23, S½ sec. 24, N½ of secs. 25 and 26, W½ sec. 28;
T. 16 N., R. 1 E., sec. 6;
T. 13 N., R 1½ E., secs. 1, 2, 11, NW¼NW¼, S½SW¼, SW¼SE¼ sec. 12, W½NE¼, NW¼, S½ sec. 13, sec. 14, W½ sec. 24, NW¼, N½SW¼, SW¼SW¼ sec. 25, sec. 35;
T. 7 N., R. 2 E., secs. 3, 10, W½, W½SE¼, sec. 11, W½E½, W½ sec. 15, W½NE¼, NW¼, S½ sec. 22, NE¼, E½NW¼, S½ sec. 23, secs. 26, 27, SW¼NE¼, SE¼NW¼, N½SW¼, SW¼SW¼ sec. 34, sec. 35;
T. 8 N., R. 2 E., sec. 5, E½ of secs. 6 and 7, sec. 8, SW¼ sec. 15, SE¼ sec.16, sec. 17, NE¼, S½ sec. 18, N½NE¼ sec. 21, E½W½, NW¼NW¼ sec. 22, S½N½, S½ sec. 26, E½NW¼, SW¼NW¼, SW¼ sec. 27, N½, SE¼ sec. 30, sec. 35;
T. 9 N., R. 2 E., secs. 2, 5, 8, E½ sec. 10, secs. 11, 14, 17, 20, 23, 29, SE¼ sec. 30, secs. 31, 32, NW¼SE¼ sec. 33;
T. 9½ N., R. 2 E., E½ of secs. 19, 23, and 26, W½ sec. 29, E½ of secs. 30 and 31, W½ sec. 32, sec. 35;
T. 10 N., R. 2 E., E½ sec. 5, N½, E½SW¼, SE¼ sec. 8, W½SW¼ sec. 16, W½W½ of secs. 21, 28 and 33, E½ sec. 35;
T. 11 N., R. 2 E., SW¼ sec. 10, S½NE¼, NW¼, N½SW¼, SE¼SW¼, SE¼ sec. 14, NE¼, N½NW¼ sec. 15, lot 1 sec. 23, lots 1, 2, 3 and 4 sec. 24;
T. 12 N., R. 2 E., secs. 6, 7, W½W½ sec. 8, NW¼NE¼, S½NE¼, NW¼, S½ sec. 17, sec. 18, N½ of secs. 19 and 20, S½ sec. 29, SE¼ sec. 30, NE¼NE¼ sec. 31, NE¼, N½NW¼, NE¼SE¼ sec. 32;
T. 13 N., R. 2 E., W½ of secs. 17, 20 and 29, NW¼ sec. 32;
T. 11 N., R. 3 E., N½ and SE¼ sec. 19, NW¼NE¼, NE¼SW¼, and NE¼SE¼ sec. 30;
T. 7 N., R. 1 W., SW¼ sec. 4, NW¼ and S½ sec. 5, sec. 13;
T. 16 N., R. 1 W., secs. 1, 3, N½, N½SW¼, SW¼SW¼, NE¼SE¼ sec. 5, N½ sec. 6, sec. 11;
T. 16 N., R. 2 W., sec. 6, E½NE¼, W½NW¼ and S½ sec. 8, sec. 18;
T. 8 N., R. 3 W., SE¼SE¼ sec. 33;
T. 10 N., R. 3 W., W½ of secs. 6, 7, 18 and 19, lots 3 and 4 sec. 30, W½ sec. 31;
T. 11 N., R. 3 W., W½ of secs. 7, 18, 19, 30 and 31;
T. 12 N., R. 3 W., W½ sec. 5, E½ sec. 6, sec. 7, W½ of secs. 8 and 17, N½ and SE¼ sec. 18, sec. 19, W½ of secs. 20, 29 and 32, NE¼ sec. 30;
T. 12½ N., R. 3 W., SW¼ sec. 29, SE¼ sec. 30, E½ sec. 31, W½ sec. 32;
T. 14 N., R. 3 W., lots 6 and 7 sec. 31;
T. 16 N., R. 3 W., W½NE¼, NW¼, N½SW¼ sec. 12, E½E½, SW¼NE¼, SE¼NW¼, S½SW¼ sec. 14, NE¼, N½NW¼, SE¼NW¼ sec. 24, NW¼ sec. 26, S½ sec. 28;
T. 8 N., R. 4 W., lot 2 sec. 2, lot 1 sec. 3, W½ of secs. 10 and 15;
T. 9 N., R. 4 W., secs. 1, 3, 10, 12, 13, 15, N½ sec. 22, secs. 24, 25, S½ sec. 26, secs. 35 and 36;
T. 10 N., R. 4 W., E½ of secs. 1, 12, 13, 24, 25 and 36;
T. 11 N., R. 4 W., SW¼ sec. 1, NE¼, N½SE¼, SW¼SE¼ sec. 2, E½ sec. 11, W½ sec. 12, SE¼ sec. 13, E½ sec. 14, SE¼ sec. 22, N½ and SW¼ sec. 23, NE¼, SE¼SE¼ sec. 24, sec. 25, NW¼, NE¼SW¼, S½SW¼ sec. 26, E½ of secs. 27 and 34, W½ sec. 35, sec. 36;
T. 12 N., R. 4 W., SE¼ sec. 6, N½NE¼, NE¼NW¼ and lot 2 sec. 7, SW¼NW¼ sec. 8, S½ of secs. 10 and 18, SE¼ sec. 25;
T. 13 N., R. 4 W., secs. 11, 14 and 23;
T. 14 N., R. 4 W., lots 2 to 9, and 11 to 16, inclusive, SW¼NE¼, SE¼NW¼, E½SW¼, W½SE¼ sec 2, lot 1, S½NE¼, SE¼ sec. 3, NE¼, NE¼NW¼, S½NW¼, S½ sec. 10, lots 1 to 8, inclusive, E½W½, W½E½ of secs. 11 and 14, sec. 15, E½ sec. 22, sec. 23, lots 1 to 6, inclusive, SW¼, W½SE¼ sec. 24, W½E½ and W½ sec. 25, sec. 26;
T. 12 N., R. 5 W., lots 5, 6 sec. 6, lots 1, 2, 3, 4, SE¼ sec. 7, NE¼NE¼, S½NE¼, S½ sec. 12, NW¼ sec. 13, NE¼ sec. 14, S½ of secs. 23 and 24;
T. 12 N., R. 6 W., secs. 1 to 11, inclusive, N½ sec. 12, S½ sec. 13, sec. 18, N½ sec. 19, W½ sec. 31;
T. 10 N., R. 7 W., lots 1, 5, 6 and S½NW¼ sec. 4;
T. 11 N., R. 7 W., secs. 4, 5, 8, 13, 17, 19, 20, N½ sec. 21, secs. 23 and 32;
T. 12 N., R. 7 W., secs. 12, 13, 14, 21, 22, 23, 24, W½ sec. 25, secs. 26, 27, 28, 33 and 34;
T. 10 N., R. 8 W., secs. 2, 3, 10, 11, S½ sec. 14, secs. 15, 22, 23, 26, 27, 34 and 35;
T. 11 N., R. 8 W., secs. 22 to 27, inclusive, secs. 34, 35, W½ sec. 36;
aggregating approximately 111,544 acres.

The stock driveway as amended by this order is described as follows, and comprises approximately 143,664 acres:

T. 8 N., R. 1 E., S½ of secs. 13, 14, 15, secs. 20, 21, 22, N½ sec. 24, sec. 29, S½ sec. 30, sec. 31;
T. 12 N., R. 1 E., SE¼ sec. 23, S½ sec. 24, N½NE¼and lot 1 sec. 26;
T. 6 N., R. 2 E., secs. 5, 8, 17, 20, 29 and 32, W½ of secs. 4, 9, 16, 21, 28 and 33;
T. 7 N., R. 2 E., secs. 4, 5, 8, 9, 16, 17, 20, 21, 28, 29, 32, 33, N½N½, SE¼NE¼, SW¼NW¼, SE¼SW¼, and SE¼ sec. 34;
T. 8 N., R. 2 E., sec. 1, W½E½, W½ sec. 4, sec. 9, N½, E½SW¼, SE¼ sec. 10, secs. 11, 12, 14, N½, SE¼ sec. 15, N½, SW¼ sec. 16, secs. 19, 20, NE¼NW¼, W½W½ sec. 21, E½ sec. 22, sec. 23, N½N½ sec. 26, E½ sec. 27, NW¼NW¼, S½N½, S½ sec. 28, sec. 29, NE¼ sec. 31, secs. 32, 33 and 34;
T. 9, N., R. 2 E., secs. 3, 4, 9, W½ sec. 10, secs. 15, 16, 21, 22, N½, NE¼SW¼, SE¼ sec. 27, NE¼NE¼, W½E½, W½ sec. 28, W½ sec. 33, N½NE¼, NW¼ sec. 34;
T. 9½ N., R. 2 E., sec. 20, W½ of secs. 21, 23 and 26, S½ sec. 27, NW¼, S½ sec. 28, E½ of secs. 29 and 32, secs. 33, 34;
T. 10 N., R. 2 E., secs. 1, 2, 3, 4, 9, 10, 11, 14 N½ of secs. 15 and 16, sec. 17, E½ of secs. 18 and 19, secs. 20, 23, 26, 29, NE¼, E½SE¼, and lots 5 and 11 sec. 30, E½NE¼, SE¼ and lots 1 and 6 sec. 31, sec. 32, W½ sec. 35;
T. 11 N., R. 2 E., N½ sec. 4, N½, SW¼ sec. 5, W½ sec. 8, sec. 17, E½ sec. 20, secs. 21, 22, NE¼NW¼, W½W½, SE¼SW¼, SW¼SE¼ sec. 23, NW¼NE¼, S½NE¼, W½, SE¼ sec. 26, secs. 27, 28, E½ sec. 29, secs. 33, 34, 35, S½ sec. 36;
T.12 N., R. 2 E., secs. 3, 4, 5, 9, 10, W½ sec. 15, sec. 16, S½ of secs. 19 and 20, secs. 21, 28, N½ of secs. 29 and 30, sec. 33;
T. 13 N., R. 2 E., secs. 6, 7, 18, 19, 30, 31, SW¼ sec. 32;
T. 14 N., R. 2 E., secs. 30 and 31;
T. 9 N., R. 3 E., sec. 31;
T. 11 N., R. 3 E., lots 2, 3, 4, S½NW¼, NW¼SW¼ sec. 1, sec. 2, E½ of secs. 3 and 10, N½NW¼, SW¼NW¼, NW¼SW¼, S½S½ sec. 11, sec. 14, NE¼ sec. 15, secs. 23, 26, S½ of secs. 27, 28 and 29, SE¼SW¼, S½SE¼ sec. 30, sec. 31;
T. 7 N., R. 1 W., sec. 1, N½ sec. 7, secs. 8, 9, 10, 11, 12, 15, and 17;
T. 7 N., R. 2 W., secs. 3, 4, 9, 10, 11, and 12;
T. 8 N., R. 2 W., secs. 28, 29, 30, 31, and 33;
T. 8 N., R. 3 W., secs. 30, 31, 32, N½, SW¼, N½SE¼, SW¼SE¼, sec. 33, secs. 34, 35, 36;
T. 11 N., R. 3 W., W½ sec. 6;
T. 12 N., R. 3 W., W½ sec. 6, NW¼, S½ sec. 30, sec. 31;
T. 12½ N., R. 3 W., SW¼ sec. 30, W½ sec. 31;
T. 8 N., R. 4 W., S½NE¼, NW¼, S½ sec. 3, E½ sec. 10, W½ sec. 11, sec. 14, E½ sec. 15, sec. 23, S½ sec. 24, sec. 25;
T. 9 N., R. 4 W., secs. 2, 11, 14, S½ sec. 22, sec. 23, N½ sec. 26, secs. 27, 34;
T. 10 N., R. 4 W., W½ of secs. 1, 12, 13, 24, 25 and 36, E½ of secs. 2, 11, 14, 23, 26 and 35;
T. 11 N., R. 4 W., E½NE¼, SE¼ sec. 1, E½ sec. 12, N½, SW¼, sec. 13, SE¼ sec. 23, NW¼, N½SW¼, SW¼SW¼ sec. 24, E½ of secs. 26 and 35;

T. 12 N., R. 4 W., E½ sec. 1, sec. 4, NE¼, E½NW¼, S½ sec. 5, S½SW¼, SE¼ sec. 7, NE¼, N½NW¼, SE¼NW¼ sec. 8, N½ of secs. 9 and 10, sec. 12, E½ sec. 13, N½ sec. 18, E½ sec. 24, NE¼ sec. 25;
T. 13 N., R. 4 W., sec. 1, E½E½ sec. 2, secs. 12, 13, 24, 25, 26, 27, 28 and 33;
T. 14 N., R. 4 W., lots 2 to 8, and 11 to 14, inclusive, NW¼NW¼, SW¼ sec. 35;
T. 12 N., R. 5 W., NE¼, S½ sec. 13, SE¼ sec. 14, W½ sec. 17, sec. 18, E½ sec. 19, secs. 20, 21, 22, N½ of secs. 23 and 24;
T. 11 N., R. 6 W., secs. 5, 6 and 7;
T. 12 N., R. 6 W., S½ sec. 12, N½ sec. 13, secs. 14, 15, 16, 17, 20, 29, SE¼SE¼ sec. 30, E½ sec. 31;
T. 10 N., R. 7 W., lots 2, 3 and 4 sec. 4;
T. 11 N., R. 7 W., secs. 11, 12, 14, 15, S½ sec. 21, secs. 22, 28, 29, 30, 31 and 33;
T. 10 N., R. 8 W., sec. 1, N½, SW¼ sec. 12, S½ sec. 13, secs. 24, 25, and 36;
T. 11 N., R. 8 W., E½ sec. 36.

[SEAL] OSCAR L. CHAPMAN,
Acting Assistant Secretary.

AUGUST 19, 1941.

[F. R. Doc. 41-6439; Filed, August 27, 1941; 10:11 a. m.]

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration

[Supplement No. 2]

1941 AGRICULTURAL CONSERVATION PROGRAM FOR WISCONSIN CUT-OVER AREA

Section I of ACP-1941-Wisconsin Cut-Over, Wheat Allotments and Yields, Paragraph (a) is amended to read as follows:

(a) *National Goal, National and State Acreage Allotments, County and Farm Acreage Allotments, and Acreage Planted to Wheat.* The provisions of § 701.201, paragraph, (h)[1] subparagraphs (1), (2), (3), (4), (7) and (8) of the 1941 Agricultural Conservation Program Bulletin (ACP-1941) are incorporated as this paragraph (a).

Done at Washington, D. C., this 26th day of August, 1941. Witness my hand and the seal of the Department of Agriculture.

[SEAL] GROVER B. HILL,
Assistant Secretary of Agriculture.

[F. R. Doc. 41-6449; Filed, August 27, 1941; 11:26 a. m.]

Surplus Marketing Administration.

PROCLAMATION OF THE SECRETARY OF AGRICULTURE MADE WITH RESPECT TO THE BASE PERIOD TO BE USED FOR THE PURPOSE OF A MARKETING AGREEMENT AND ORDER REGULATING THE HANDLING OF IRISH POTATOES GROWN IN THE STATE OF COLORADO

By virtue of the authority vested in the Secretary of Agriculture by Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, it is hereby found and proclaimed that, with respect to Irish potatoes grown in the State of Colorado, the purchasing power of such Irish potatoes during the pre-war period, August 1909–July 1914, cannot be satisfactorily determined from available statistics of the Department of Agriculture for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of such Irish potatoes, but the purchasing power of such Irish potatoes can be satisfactorily determined from available statistics of the Department of Agriculture for the period August 1919–July 1929. The period August 1919–July 1929 is, therefore, hereby declared and proclaimed to be the base period to be used in determining the purchasing power of Irish potatoes grown in the State of Colorado, for the purpose of the execution of a marketing agreement and the issuance of an order regulating the handling of such Irish potatoes.

Issued at Washington, D. C., on this 26th day of August 1941. Witness my hand and the seal of the Department of Agriculture.

[SEAL] GROVER B. HILL,
Acting Secretary of Agriculture.

[F. R. Doc. 41-6447; Filed, August 27, 1941; 11:26 a. m.]

DETERMINATION OF THE SECRETARY OF AGRICULTURE, APPROVED BY THE PRESIDENT OF THE UNITED STATES, WITH RESPECT TO THE ISSUANCE OF ORDER NO. 20, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE LA PORTE COUNTY, INDIANA, MARKETING AREA

Harry L. Brown, Acting Secretary of Agriculture of the United States of America, pursuant to the powers conferred upon the Secretary by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, issued, effective August 3, 1939, Order No. 20, as amended,[2] regulating the handling of milk in the La Porte County, Indiana, marketing area.

H. A. Wallace, Secretary of Agriculture, tentatively approved, on June 30, 1939, a marketing agreement, as amended, regulating the handling of milk in the La Porte County, Indiana, marketing area.

There being reason to believe that the execution of amendments to the tentatively approved marketing agreement, as amended, and to the order, as amended, regulating the handling of milk in the La Porte County, Indiana, marketing area would tend to effectuate the declared policy of said act, notice was given, on May 15, 1941, of a public hearing[3] which was held in La Porte, Indiana, on May 21, 1941, on a proposal to amend said marketing agreement, as amended, and said order, as amended, and at said time and place all interested parties were afforded an opportunity to be heard on the proposal to amend said marketing agreement, as amended, and said order, as amended.

After such hearing and after the tentative approval, on the 23d day of July 1941, of a marketing agreement, as amended, regulating the handling of milk in the La Porte County, Indiana, marketing area, handlers of more than fifty (50) percent of the volume of milk covered by this order, as amended, which is marketed within the La Porte County, Indiana, marketing area, refused or failed to sign such tentatively approved marketing agreement, as amended, relating to milk.

The Secretary of Agriculture, pursuant to the powers conferred upon the Secretary by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, hereby determines:

1. That the refusal or failure of said handlers to sign said tentatively approved marketing agreement, as amended, tends to prevent the effectuation of the declared policy of the act;

2. That the issuance of the proposed Order No. 20,[3] as amended, is the only practical means pursuant to such policy of advancing the interests of the producers of milk which is produced for sale in the said area; and

3. That the issuance of the proposed Order No. 20, as amended, is approved or favored by over two-thirds of the producers who participated in a referendum conducted by the Secretary and who, during the month of April 1941, said month having been determined by the Secretary to be a representative period, were engaged in the production of milk for sale in said area.

In witness whereof, Grover B. Hill, Acting Secretary of Agriculture of the United States, has executed this determination in duplicate, and has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the city of Washington, District of Columbia, this 20th day of August 1941.

[SEAL] GROVER B. HILL,
Acting Secretary of Agriculture.

Approved:

FRANKLIN D ROOSEVELT,
The President of the United States.

Dated: August 23, 1941.

[F. R. Doc. 41-6445; Filed, August 27, 1941; 11:25 a. m.]

[Docket No. AO 113-A 1-RO 2]

NOTICE OF REOPENING OF HEARING WITH RESPECT TO A PROPOSAL TO AMEND THE TENTATIVELY APPROVED MARKETING AGREEMENT AND ORDER NO. 47 REGULATING THE HANDLING OF MILK IN THE FALL RIVER, MASSACHUSETTS, MARKETING AREA

Notice is hereby given that the hearing with respect to a proposal to amend the tentatively approved marketing agreement and Order No. 47 regulating the handling of milk in the Fall River,

[1] 5 F.R. 2921.

[2] 4 F.R. 3481.

[3] 6 F.R. 2471.

[3] See Title 7, Chapter IX, *supra*.

Massachusetts, marketing area, which was held at Westport, Massachusetts, on October 28, 1940, and reopened on May 19, 1941, will be reopened on September 3, 1941, at 10:00 a. m., e. d. s. t., in the Watuppa Grange Hall, Westport, Massachusetts.

This notice is given pursuant to the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, and of the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture.

This public hearing is for the purpose of receiving additional evidence concerning the proposed amendments considered at the former hearings, and, in addition thereto, evidence as to the necessity for (1) increasing the Class I price paid producers from $3.35 to $3.90 per hundredweight, and (2) changing the semi-monthly delivery period to a monthly period with provision for advance payment to producers for the first half of the period, as proposed by the Dairy Division, Surplus Marketing Administration, United States Department of Agriculture.

Copies of the proposed amendments may be obtained from the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, Washington, D. C., in Room 0310, South Building, or may be there inspected.

[SEAL] GROVER B. HILL,
Assistant Secretary of Agriculture.

AUGUST 26, 1941.

[F. R. Doc. 41-6446; Filed, August 27, 1941; 11:26 a. m.]

DEPARTMENT OF LABOR

Wage and Hour Division.

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Notice is hereby given that special Certificates authorizing the employment of learners at hourly wages lower than the minimum rate applicable under section 6 of the Act are issued under section 14 thereof and § 522.5 (b) of the Regulations issued thereunder. (August 16, 1940, 5 F.R. 2862) to the employers listed below effective August 28, 1941.

The employment of learners under these Certificates is limited to the terms and conditions as designated opposite the employer's name. These Certificates are issued upon the employers' representations that experienced workers for the learner occupations are not available for employment and that they are actually in need of learners at subminimum rates in order to prevent curtailment of opportunities for employment. The Certificates may be cancelled in the manner provided for in the Regulations and as indicated on the Certificate. Any person aggrieved by the issuance of these Certificates may seek a review or reconsideration thereof.

NAME, AND ADDRESS OF FIRM, PRODUCT, NUMBER OF LEARNERS, LEARNING PERIOD, LEARNER WAGE, LEARNER OCCUPATIONS, EXPIRATION DATE

Alfred Mossner Company, 108 West Lake Street, Chicago, Illinois; Blue Prints, Photostats, and allied reproductions; 1 learner; 4 weeks for any one learner; 25 cents per hour; Blue printer; October 9, 1941.

Schween-Wagner Studios, Inc., 17 N. Phelps Street, Youngstown, Ohio; Photographs; 3 learners; 4 weeks for any one learner; 25 cents per hour; Retoucher, Colorist, Printer; October 9, 1941.

Warren Lamp Company, Central Avenue, Warren, Pennsylvania; Incandescent Lamp Bulbs; 15 learners; 4 weeks for any one learner; 25 cents per hour; Stem Maker, Inserter, Mounter, Sealer, Finisher, Exhauster; November 6, 1941.

Signed at Washington, D. C., this 27th day of August 1941.

GUSTAV PECK,
Authorized Representative of the Administrator.

[F. R. Doc. 41-6462; Filed, August 27, 1941; 11:54 a. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under section 6 of the Act are issued under section 14 thereof, Part 522 of the Regulations issued thereunder (August 16, 1940, 5 F.R. 2862) and the Determination and Order or Regulation listed below and published in the FEDERAL REGISTER as here stated.

Apparel Learner Regulations, September 7, 1940 (5 F.R. 3591).

Artificial Flowers and Feathers Learner Regulations, October 24, 1940 (5 F.R. 4203).

Glove Findings and Determination of February 20, 1940, as amended by Administrative Order of September 20, 1940 (5 F.R. 3748).

Hosiery Learner Regulations, September 4., 1940 (5 F.R. 3530).

Independent Telephone Learner Regulations, September 27, 1940 (5 F.R. 3829).

Knitted Wear Learner Regulations, October 10, 1940 (5 F.R. 3982).

Millinery Learner Regulations, Custom Made and Popular Priced, August 29, 1940 (5 F.R. 3392, 3393).

Textile Learner Regulations, May 16, 1941 (6 F.R. 2446).

Woolen Learner Regulations, October 30, 1940 (5 F.R. 4302).

The employment of learners under these Certificates is limited to the terms and conditions as to the occupations, learning periods, minimum wage rates, et cetera, specified in the Determination and Order or Regulation for the industry designated above and indicated opposite the employer's name. These Certificates become effective August 28, 1941. The Certificates may be cancelled in the manner provided in the Regulations and as indicated in the Certificates. Any person aggrieved by the issuance of any of these Certificates may seek a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS AND EXPIRATION DATE

American Pants Manufacturing Company, 306 East Main Street, Carbondale, Illinois; Apparel; Trousers; 5 percent (75% of the applicable hourly minimum wage); January 3, 1942.

Artform Corset Company, 117 South Broad Street, Philadelphia, Pennsylvania; Apparel; Corsets & Brassieres; 1 learner (75% of the applicable hourly minimum wage); February 28, 1942.

Atlantic Trouser Company, Inc., 403 Jefferson Street, Woodbine, New Jersey; Apparel; Trousers; 5 learners (75% of the applicable hourly minimum wage); August 28, 1942.

Louis Bendet Company, 31 Wilkinson Avenue, Jersey City, New Jersey; Apparel; Pajamas and Gowns; 20 learners (75% of the applicable hourly minimum wage); December 29, 1941.

Biberman Brothers, Inc., Haas Avenue, Sunbury, Pennsylvania; Apparel; Dresses; 5 percent (75% of the applicable hourly minimum wage); August 28, 1942.

Dorothy Bickum Brassiere Company, 44 West 28th Street, New York, New York; Apparel; Girdles and Corselettes; 3 learners (75% of the applicable hourly minimum wage); December 11, 1941.

Calef Brothers and Company, 474 Acushnet Avenue, New Bedford, Massachusetts; Apparel; House Dresses; 5 learners (75% of the applicable hourly minimum wage); August 28, 1942.

Camille Sportswear Company, 700 Glenmore Avenue, Brooklyn, New York; Apparel; Slack Sets and Corduroy Jackets; 10 learners (75% of the applicable hourly minimum wage); December 29, 1941.

D'Amour Foundations Company, 135 Madison Avenue, New York, New York; Apparel; Brassieres; 5 learners (75% of the applicable hourly minimum wage); December 11, 1941.

Mr. Israel Farbman, 1027 Callowhill Street, Philadelphia, Pennsylvania; Apparel; Coats; 5 percent (75% of the applicable hourly minimum wage); August 28, 1942.

The Gluckin Corporation, 34 West 14th Street, New York, New York; Apparel; Brassieres and Girdles; 5 percent (75% of the applicable hourly minimum wage); December 11, 1941.

Hollywood Rogue Sportswear, Inc., 1041 N. Highland, Hollywood, California; Apparel; Sport Shirts; 18 learners (75% of the applicable hourly minimum wage); December 24, 1941.

Hostess Frocks, Inc., 45 East Barclay Street, Hicksville, New York; Apparel; Dresses; 14 learners (75% of the applicable hourly minimum wage); December 29, 1941.

Imperial Neckwear Company, 912 Broadway, New York, N. Y.; Apparel; Bow ties, four-in-hand ties; 5 learners (75% of the applicable hourly minimum wage); December 24, 1941.

Judy Frocks, 505 Textile Tower, Seattle, Washington, Apparel; Dresses; 3 learners (75% of the applicable hourly minimum wage); February 28, 1942.

Lafayette Pants Company, 401 Lafayette Boulevard, Fredericksburg, Virginia; Apparel; Single Pants; 30 learners (75% of the applicable hourly minimum wage); December 29, 1941.

Model Shirt Company, 549 River Street, Troy, New York; Apparel; Boys' Dress Shirts; 10 learners (75% of the applicable hourly minimum wage); August 28, 1942.

Model Sportwear Company, 212 E Street, Pen Argyl, Pennsylvania; Apparel; Ladies' Blouses; 5 learners (75% of the applicable hourly minimum wage); August 28, 1942.

N. R. Garment Company, Walkersville, Maryland; Apparel; Men's & Boys' Pajamas; 15 learners (75% of the applicable hourly minimum wage); December 29, 1941.

Arthur Newman, 1024 Filbert Street, Philadelphia, Pennsylvania; Apparel; Ladies' Underwear; 5 learners (75% of the applicable hourly minimum wage); August 28, 1942.

Rose Del Dress Company, Inc., South Broad Street, Westfield, Massachusetts; Apparel; Dresses; 5 learners (75% of the applicable hourly minimum wage); August 28, 1942.

Universal Manufacturing Company, 710 Pierce Street, Berlin, Wisconsin; Apparel; Leather Coats; 1 learner (75% of the applicable hourly minimum wage); February 28, 1942.

Meyer Stone, 108–21 53rd Avenue, Corona, New York; Apparel; Shirts and Pajamas; 5 learners (75% of the applicable hourly minimum wage); August 28, 1942.

Meyer Stone, 104–15 Corona Avenue, Corona, New York; Apparel; Shirts and Pajamas; 5 learners (75% of the applicable hourly minimum wage); August 28, 1942.

Albany Knitting Company, Inc., 371 South Pearl Street, Albany, New York; Gloves; Knit Wool Gloves; 4 learners; August 28, 1942.

Northern Glove and Mitten Company, Green Bay, Wisconsin; Gloves; Work Gloves; 10 percent; February 28, 1942.

Interwoven Stocking Company, Morristown, Tennessee; Hosiery; Seamless Hosiery; 50 learners; April 28, 1942.

Resolute Knitting Mills, 257 West Diamond Street, Philadelphia, Pennsylvania; Hosiery; Seamless Hosiery; 3 learners; August 28, 1942.

Summers Hosiery Mills, Inc., 620 N. Shaver Street, Salisbury, North Carolina; Hosiery; Seamless Hosiery; 5 learners; April 28, 1942.

Redstone Knitting Mill, Inc., Penn-Craft, East Millsboro, Pennsylvania; Knitted Wear; Knitted Outerwear; 10 learners; February 26, 1942.

Monroe Winding Company, 2961 Atlantic Avenue, Brooklyn, New York; Textile; Cotton and Wool Winding; 3 learners; December 11, 1941.

Badger Worsted Mills, Grafton, Wisconsin; Woolen; Worsted Yarn; 3 percent; August 28, 1942.

Signed at Washington, D. C., this 27th day of August 1941.

GUSTAV PECK,
Authorized Representative of the Administrator.

[F. R. Doc. 41-6463; Filed, August 27, 1941; 11:54 a. m.]

NOTICE OF HEARING ON MINIMUM WAGE RECOMMENDATION OF INDUSTRY COMMITTEE NO. 35 FOR THE SHOE MANUFACTURING AND ALLIED INDUSTRIES—SEPTEMBER 12, 1941

Whereas the Administrator of the Wage and Hour Division of the United States Department of Labor, acting pursuant to section 5 (b) of the Fair Labor Standards Act of 1938, on July 10, 1941, by Administrative Order No. 119, dated July 8, 1941, appointed Industry Committee No. 35 for the Shoe Manufacturing and Allied Industries, composed of an equal number of representatives of the public, employers in the industry, and employees in the industry, such representatives having been appointed with due regard to the geographical regions in which the industries are carried on; and

Whereas Industry Committee No. 35 on August 25, 1941, recommended a minimum wage rate for the Shoe Manufacturing and Allied Industries and duly adopted a report containing said recommendation and reasons therefor and has filed such report with the Administrator on August 26, 1941, pursuant to section 8 (d) of the Act and section 511.19 of the regulations issued under the Act; and

Whereas, the Administrator is required by section 8 (d) of the Act, after due notice to interested persons and giving them an opportunity to be heard, to approve and carry into effect by order the recommendation of Industry Committee No. 35 if he finds that the recommendation is made in accordance with law and is supported by the evidence adduced at the hearing before him, and, taking into consideration the same factors as are required to be considered by the Industry Committee, will carry out the purposes of section 8 of the Act; and, if he finds otherwise, to disapprove such recommendation;

Now, therefore, notice is hereby given that:

1. The recommendation of Industry Committee No. 35 is as follows:

Every employer shall pay not less than 40 cents per hour to each of his employees who is engaged in commerce or in the production of goods for commerce in the Shoe Manufacturing and Allied Industries as defined in Administrative Order No. 119, dated July 8, 1941.

II. The definition of the Shoe Manufacturing and Allied Industries, as set forth in Administrative Order No. 119, issued July 10, 1941, is as follows:

1. For the purpose of this order the term "shoe manufacturing and allied industries" means:

(a) The manufacture or partial manufacture of footwear from any material and by any process except knitting, vulcanizing of the entire article or vulcanizing (as distinct from cementing) of the sole to the upper.

(b) The manufacture or partial manufacture of the following types of footwear, subject to the limitations of paragraph (a) but without prejudice to the generality of that paragraph:

Athletic shoes.	Puttees, except spiral puttees.
Boots.	Sandals.
Boot tops.	Shoes completely rebuilt in a shoe factory.
Burial shoes.	Slippers.
Custom-made boots or shoes.	
Moccasins.	

(c) The manufacture from leather or from any shoe-upper material of all cut stock and findings for footwear, including bows, ornaments and trimmings.

(d) The manufacture of the following types of cut stock and findings for footwear from any material except from rubber or composition of rubber, molded to shape:

Outsoles.	Shanks.
Midsoles.	Boxtoes.
Insoles.	Counters.
Taps.	Stays.
Lifts.	Stripping.
Rands.	Sock linings.
Toplifts.	Heel pads.
Bases.	

(e) The manufacture of heels of any material except molded rubber, but not including the manufacture of wood-heel blocks.

(f) The manufacture of cut upper parts for footwear, including linings, vamps and quarters.

(g) The manufacture of pasted shoe stock.

(h) The manufacture of boot and shoe patterns.

2. The definition of the shoe manufacturing and allied industries covers all occupations in the industries which are necessary to the production of the articles covered in the definition including clerical, maintenance, shipping, and selling occupations: *Provided, however,* That where an employee covered by this

definition is employed during the same workweek at two or more different minimum rates of pay, he shall be paid the highest of such rates for such workweek unless records concerning his employment are kept by his employer in accordance with applicable regulations of the Wage and Hour Division.

III. The full text of the report and recommendation of Industry Committee No. 35 is and will be available for inspection by any person between the hours of 9:00 a. m. and 4:30 p. m. at the following offices of the United States Department of Labor, Wage and Hour Division:

Boston, Massachusetts, Old South Building, 294 Washington Street.

New York, New York, Parcel Post Building, 341 Ninth Avenue.

Newark, New Jersey, Essex Building, 31 Clinton Street.

Philadelphia, Pennsylvania, 1216 Widener Building, Chestnut and Juniper Streets.

Pittsburgh, Pennsylvania, 219 Old Post Office Building, Fourth and Smithfield Streets.

Richmond, Virginia, 215 Richmond Trust Building, 627 East Main Street.

Baltimore, Maryland, 201 North Calvert Street.

Raleigh, North Carolina, North Carolina State Department of Labor, Salisbury and Edenton Streets.

Columbia, South Carolina, Federal Land Bank Building, Hampton and Marion Streets.

Atlanta, Georgia, Fifth Floor, Witt Building, 249 Peachtree Street NE.

Jacksonville, Florida, 456 New Post Office Building.

Birmingham, Alabama, 1007 Comer Building, Second Avenue and 21st Street.

New Orleans, Louisiana, 916 Union Building.

Nashville, Tennessee, 509 Medical Arts Building, 119 Seventh Avenue, North.

Cleveland, Ohio, Main Post Office, West Third and Prospect Avenue.

Cincinnati, Ohio, 1312 Traction Building, Fifth and Walnut Street.

Detroit, Michigan, 348 Federal Building.

Chicago, Illinois, 1200 Merchandise Mart, 222 West North Bank Drive.

Minneapolis, Minnesota, 406 Pence Building, 730 Hennepin Avenue.

Kansas City, Missouri, 504 Title and Trust Building, Tenth and Walnut Streets.

Denver, Colorado, 300 Chamber of Commerce Building, 726 Champa Street.

St. Louis, Missouri, 100 Old Federal Building.

Dallas, Texas, 824 Santa Fe Building, 1114 Commerce Street.

San Francisco, California, Room 500, Humboldt Bank Building, 785 Market Street.

Los Angeles, California, 417 H. W. Hellman Building, 354 South Spring Street.

Seattle, Washington, 305 Post Office Building, Third Avenue and Union Street.

San Juan, Puerto Rico, Post Office Box 112.

Juneau, Alaska, D. B. Stewart, Commissioner of Mines.

Washington, District of Columbia, Department of Labor, Fourth Floor.

Copies of the Committee's report and recommendation may be obtained by any person upon request addressed to the Administrator of the Wage and Hour Division, Department of Labor, Washington, D. C.

IV. A public hearing for the purpose of taking evidence on the question of whether the recommendation of Industry Committee No. 35 shall be approved or disapproved pursuant to Section 8 of the Act will be held September 12, 1941, at 10:00 a. m. in Room 3229 of the United States Department of Labor Building in Washington, D. C., before Thomas Holland, Esq., as presiding officer.

V. Any interested person, supporting or opposing the recommendation of Industry Committee No. 35, may appear at the aforesaid hearing to offer evidence either on his own behalf or on behalf of any other person: *Provided*, That not later than September 8, 1941, any such person shall file with the Administrator at Washington, D. C., a notice of his intent to appear which shall contain the following information:

1. The name and address of the person appearing.

2. If such person is appearing in a representative capacity, the name and address of the person or persons whom he is representing.

3. Whether such person proposes to appear for or against the recommendation of Industry Committee No. 35.

4. The approximate length of time requested for his presentation.

Such notice may be mailed to the Administrator, Wage and Hour Division, United States Department of Labor, Washington, D. C., and shall be deemed filed upon receipt thereof.

VI. Any person interested in supporting or opposing the recommendation of Industry Committee No. 35 may secure further information concerning the aforesaid hearing by inquiry directed to the Administrator, Wage and Hour Division, United States Department of Labor, Washington, D. C., or by consulting with attorneys representing the Administrator who will be available for that purpose at the offices of the Wage and Hour Division in Washington, D. C.

VII. Copies of the following documents relating to the Shoe Manufacturing and Allied Industries will be made available for inspection upon request by any interested person who intends to appear at the aforesaid hearing:

Report entitled, "Recent Wage Increases in the Shoe Manufacturing Industry," by Industry Committee Branch, Wage and Hour Division, dated August 1, 1941.

Report entitled, "Condition and Regulation of the Shoe Industry, 1914–1918," prepared by the Bureau of Labor Statistics, U. S. Department of Labor, May, 1941.

Report entitled, "Shoe Manufacturing and Allied Industries, August, 1941," prepared by the Research and Statistics Branch, Wage and Hour Division.

Bulletin No. 670, entitled, "Earnings and Hours in Shoe and Allied Industries, During First Quarter of 1939," issued by the Bureau of Labor Statistics, United States Department of Labor.

Parts I and II of "Report on the Shoe Manufacturing and Allied Industries," prepared by Economic Section, Wage and Hour Division, for Industry Committee No. 6, July 26, 1939.

"Preliminary Report on the Shoe Manufacturing and Allied Industries," April 4, 1939, prepared by Economic Section, Wage and Hour Division, for Industry Committee No. 6.

VIII. The hearing will be conducted in accordance with the following rules, subject, however, to such subsequent modifications by the Administrator or the Principal Hearings Examiner as are deemed appropriate:

1. The hearing shall be stenographically reported and a transcript made which will be available to any materially interested person upon request made to the Wage and Hour Division, United States Department of Labor, Washington, D. C.

2. In order to maintain orderly and expeditious procedure, each person filing a Notice to Appear shall be notified, if practicable, of the approximate day and the place at which he may offer evidence at the hearing. If such person does not appear at the time set in the notice he will not be permitted to offer evidence at any other time except by special permission of the presiding officer.

3. At the discretion of the presiding officer the hearing may be continued from day to day, or adjourned to a later date, or to a different place, by announcement thereof at the hearing by the presiding officer, or by other appropriate notice.

4. At any stage of the hearing, the presiding officer may call for further evidence upon any matter. After the presiding officer has closed the hearing before him, no further evidence shall be taken, except at the request of the Administrator, unless provision has been made at the hearing for the later receipt of such evidence. In the event that the Administrator shall cause the hearing to be reopened for the purpose of receiving further evidence, due and reasonable notice of the time and place fixed for such taking of testimony shall be given to all persons who have filed a notice of intention to appear at the hearing.

5. All evidence must be presented under oath or affirmation.

6. Written documents or exhibits, except as otherwise permitted by the presiding officer, must be offered in evidence by a person who is prepared to testify as to the authenticity and trustworthiness thereof, and who shall, at the time of offering the documentary exhibit, make a brief statement as to the contents and manner of preparation thereof.

7. Written documents and exhibits shall be tendered in duplicate and the persons preparing the same shall be prepared to supply additional copies if such are ordered by the presiding officer. Where evidence is embraced in a document containing matter not intended to be put in evidence, such document will not be received, but the person offering the same may present to the presiding officer the original document together with two copies of those portions of the document intended to be put in evidence. Upon presentation of such copies in proper form the copies will be received in evidence.

8. Subpoenas requiring the attendance of witnesses or the presentation of a document from any place in the United States at any designated place of hearing may be issued by the Administrator at his discretion, and any person appearing in the proceeding may apply in writing for the issuance by the Administrator of the subpoena. Such application shall be timely and shall identify exactly the witness or document and state fully the nature of the evidence proposed to be secured.

9. Witnesses summoned by the Administrator shall be paid the same fees and mileage as are paid witnesses in the courts of the United States. Witness fees and mileage shall be paid by the party at whose instance witnesses appear, and the Administrator before issuing subpoena may require a deposit of an amount adequate to cover the fees and mileage involved.

10. The rules of evidence prevailing in the courts of law or equity shall not be controlling.

11. The presiding officer may, at his discretion, permit any person appearing in the proceeding to cross-examine any witness offered by another person in so far as is practicable, and to object to the admission or exclusion of evidence by the presiding officer. Requests for permission to cross-examine a witness offered by another person and objections to the admission or exclusion of evidence shall be stated briefly with the reasons for such request or the ground of objection relied on. Such requests or objections shall become a part of the record, but this record shall not include argument thereon except as ordered by the presiding officer. Objections to the approval of the Committee's recommendation and to the promulgation of a wage order based upon such approval must be made at the hearing before the presiding officer.

12. Before the close of the hearing, the presiding officer shall receive written requests from persons appearing in the proceeding for permission to make oral arguments before the Administrator upon the matter in issue. These requests will be forwarded to the Administrator by the presiding officer with a record of the proceedings. If the Administrator, in his discretion, allows the request, he shall give such notice thereof as he deems suitable to all persons appearing in the proceedings, and shall designate the time and place at which the oral arguments shall be heard. If such requests are allowed, all persons appearing at the hearing will be given opportunity to present oral argument.

13. Briefs (12 copies) may be submitted to the Administrator following the close of the hearing, by any persons appearing therein. Notice of the final dates for filing such briefs shall be given by the Administrator in such manner as shall be deemed suitable by him.

14. On the close of the hearing the presiding officer shall forthwith file a complete record of the proceedings with the Administrator. The presiding officer shall not file an intermediate report unless so directed by the Administrator. If a report is filed, it shall be advisory only and have no binding effect upon the Administrator.

15. No order issued as a result of the hearing will take effect until after due notice is given of the issuance thereof by publication in the FEDERAL REGISTER.

Signed at Washington, D. C., this 27th day of August, 1941.

PHILIP B. FLEMING,
Administrator.

[F. R. Doc. 41-6464; Filed, August 27, 1941; 11:54 a. m.]

FEDERAL COMMUNICATIONS COMMISSION.

[Docket No. 6153]

NOTICE RELATIVE TO SOUTH FLORIDA BROADCASTING, INC. (NEW)

Application dated July 25, 1940, for construction permit; class of service. broadcast; class of station, broadcast: location, Miami, Florida; operating assignment specified: Frequency, 1,450 kc.; power, 250 w.; hours of operation, unlimited.

You are hereby notified that the Commission has examined the above-described application and has designated the matter for hearing, to be consolidated with B3-P-2768 of Pan-American Broadcasting System, Inc., Docket No. 5931, for the following reasons:

1. To determine whether the applicant, its officers, directors and stockholders are qualified in all respects to construct and operate the proposed station.

2. To determine whether the proposed radiating system complies with the Standards of Good Engineering Practice, particularly with reference to the length of the radials.

3. To determine the extent and effect of any interference which would result from the simultaneous operation of the station proposed herein and a station proposed for Hollywood, Florida, in Docket No. 5931.

4. To determine the areas and populations which may be expected to gain interference-free, primary service from the operation of the station proposed herein and what other broadcast service is available to these areas and populations.

5. To determine whether in view of the facts adduced under the foregoing issues and the issues relating to the application of Pan-American Broadcasting System, Inc. (Docket No. 5931), public interest, convenience and necessity would be served by the granting of the instant application and said application of Pan-American Broadcasting System, Inc., or either of them.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of practice and Procedure.

The applicant's address is as follows:

South Florida Broadcasting, Inc., 924 duPont Building, Miami, Florida.

Dated at Washington, D. C., August 25, 1941.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 41-6440; Filed, August 27, 1941; 11:05 a. m.]

[Docket No. 5931]

NOTICE RELATIVE TO PAN-AMERICAN BROADCASTING SYSTEM, INC. (NEW)

Application dated February 21, 1940, for construction permit; class of service, broadcast; class of station, broadcast; location, Hollywood, Florida; operating assignment specified: Frequency, 1,420 kc. (1,450 kc. NARBA); power, 250 w.; hours of operation, unlimited.

You are hereby notified that the Commission has examined the above-described application and has designated the matter for hearing, to be consolidated with application B3-P-2942 of South Florida Broadcasting, Inc., Docket No. 6153, for the following reasons:

1. To determine whether the applicant, its officers, directors, and stockholders

are qualified in all respects to construct and operate the proposed station.

2. To determine whether the applicant has made false statements to the Commission in its application (original or amended forms).

3. To determine the extent and effect of any interference which would result from the simultaneous operation of the station proposed herein and a station proposed for Miami, Florida in Docket No. 6153.

4. To determine areas and populations which may be expected to gain interference-free primary service from the operation of the station proposed herein and what other broadcast service is available to these areas and populations.

5. To determine whether, in view of the facts adduced under the foregoing issues and the issues relating to the application of South Florida Broadcasting, Inc. (Docket No. 6153), public interest, convenience and necessity would be served by the granting of the instant application and said application of South Florida Broadcasting, Inc., or either of them.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of § 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of § 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

Pan-American Broadcasting System, Inc., % David Sholtz, American Bank Building, Miami, Florida.

Dated at Washington, D. C., August 25, 1941.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 41-6441; Filed, August 27, 1941; 11:05 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 70-337]

IN THE MATTER OF NATIONAL POWER & LIGHT COMPANY

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 23rd day of August, A. D. 1941.

A declaration or application (or both) pursuant to the Public Utility Holding Company Act of 1935 having been duly filed with this Commission by the above named party, and notice having been given of the filing thereof by publication in the FEDERAL REGISTER and otherwise, as provided by Rule U-23 under said Act;

And the said declaration and application being concerned with the following:

National Power & Light Company ("National"), a registered holding company, a subsidiary of Electric Bond and Share Company, also a registered holding company, proposes to make an offer to the holders of National's $6 Preferred Stock (279,716 shares presently outstanding) to exchange the Common Stock of the Houston Lighting & Power Company ("Houston"), a subsidiary of National, for such $6 Preferred Stock on the following basis: 1.875 (one and seven-eighths) shares of Houston Common for each one share of National $6 Preferred Stock, to the extent that shares of Houston Common Stock are available for the purposes of such exchange. National proposes that the said plan of exchange shall become operative when holders of no less than 75% of the outstanding shares of $6 Preferred Stock shall have accepted such plan, or may be declared operative at the discretion of the Board of Directors of National when the holders of no less than 50% of said $6 Preferred Stock shall have accepted such plan. National states that the transaction is a step in the liquidation of National in conformity with section 11 of the Act. National further states that, if, upon the termination of the proposed exchange plan, it holds as much as 5% of the Houston Common Stock, it expects and intends to take whatever action may be required, pursuant to the approval of the Securities and Exchange Commission, to cease to be either a holding company with respect to, or an affiliate of, Houston; and

It appearing to the Commission that it is appropriate in the public interest and the interests of investors and consumers that a hearing be held with respect to said declaration or application and that said declaration shall not become effective or said application be granted except pursuant to the further order of the Commission;

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on September 15, 1941 at 10:00 in the forenoon of that day at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing cause shall be shown why said declaration shall become effective;

It is further ordered, That Willis E. Monty or any other officer or officers of the Commission designated by the Commission for that purpose shall preside at the hearing in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act, and to a trial examiner under the Commission's Rules of Practice;

Notice of such hearings is hereby given to declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before September 10, 1941;

It is further ordered, That, without limiting the scope of issues presented by said declaration or application, particular attention will be directed at said hearing to the following matters and questions;

1. Whether the proposed transaction is necessary to effectuate the provisions of section 11 (b) of the Act.

2. Whether the prospective dissolution of National presents any problem as to the fairness of the terms and conditions of the proposed transaction, and whether in all other respects the proposed transaction is fair and equitable to all classes of security holders affected thereby.

3. Whether the proposed transaction is in conformance with the applicable provisions of section 9 (a) (1), 11, 12 (c), 12 (d) and 12 (e) of the Act.

4. Whether the terms of the so-called "profit sharing agreement" between Houston Lighting & Power Company and the City of Houston, Texas, or the history and status of negotiations, proceedings or disputes with reference thereto, present any question as to the fairness of the terms and conditions of the proposed transaction or require that any term or condition be imposed, or any order entered, with respect to disclosures to be made in connection with solicitations under the plan.

5. Whether in all respects the soliciting literature to be used in connection with the plan is appropriate and adequate to advise security holders and prospective investors of all relevant facts and circumstances.

6. Whether it is necessary to impose any term or condition, or enter any order, to insure that voting power shall be fairly and equitably distributed among the security holders of Houston.

7. Whether it is necessary to impose any term or condition with respect to servicing arrangements now in effect between Houston and Ebasco Services Incorporated, or otherwise, to insure that Houston shall cease to be a subsidiary, directly or indirectly, of National or of Electric Bond and Share Company.

8. Whether it is necessary to impose any term or condition restricting the disposition of any earned surplus credit resulting from the proposed transaction.

9. Whether it is necessary and appropriate to impose any other terms and conditions for the protection of the public interest or the interests of investors or consumers.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 41-6453; Filed, August 27, 1941; 11:40 a. m.]

[File No. 59-17]

IN THE MATTER OF THE UNITED LIGHT AND POWER COMPANY, THE UNITED LIGHT AND RAILWAYS COMPANY, AMERICAN LIGHT & TRACTION COMPANY, CONTINENTAL GAS & ELECTRIC CORPORATION, UNITED AMERICAN COMPANY, AND IOWA-NEBRASKA LIGHT AND POWER COMPANY, RESPONDENTS

[File No. 54-25]

THE UNITED LIGHT AND POWER COMPANY, APPLICANT

NOTICE OF AND ORDER RECONVENING HEARING FOR PURPOSE OF CONSIDERING RESPONDENTS' "AMENDED APPLICATION NUMBER 1"

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of August, A. D. 1941.

The Commission having previously, by order entered in these proceedings on March 20, 1941, ordered among other things the dissolution of The United Light and Power Company, and said order having provided that the respondents should make application to the Commission for the entry of such further orders as were necessary or appropriate for that purpose, and the Commission having reserved jurisdiction to enter such further orders as might be necessary or appropriate with respect to other matters in this proceeding; and

The United Light and Power Company and The United Light and Railways Company having filed on April 21, 1941, an application, designated as "Application No. 1", with respect to the sale of their interests in Northern Natural Gas Company, a registered holding company and one of their subsidiaries, which sale is proposed to be made through underwriters; and The United Light and Railways Company having, by letter on June 30, 1941, requested the withdrawal of the aforesaid application and the Commission having taken no action on such request; and said The United Light and Railways Company having, by letter dated August 22, 1941, requested the withdrawal of its previous letter of June 30, 1941; and The United Light and Power Company and The United Light and Railways Company having filed, on August 25, 1941, an "Amended Application No. 1," with respect to the sale of their interests in Northern Natural Gas Company, which stock interest is now represented by 355,250 shares of common stock, being 35% of the total outstanding common stock of said Northern Natural Gas Company.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that the hearings herein be reconvened for the purpose of considering said "Amended Application No. 1";

It is ordered, That the request to withdraw the letter of June 30, 1941 be and the same hereby is granted; and

It is further ordered, That the hearing in this proceeding shall be reconvened at the office of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C., in such room as may be designated on such date by the Hearing Room Clerk in Room 1102, at 10:00 A. M. on the 8th day of September, 1941. At said reconvened hearing on that day the issues will be limited to a consideration of the matters presented by said "Amended Application No. 1" with respect to the sale by said respondents of their interests in Northern Natural Gas Company.

It is further ordered, That without limiting the scope of issues presented by said application, particular attention will be directed at said hearing to the following matters and questions:

(1) Whether the proposed offering price represents a fair consideration for the sale of the stock owned by the applicant and will also represent a fair price to the public;

(2) Whether the proposed transaction generally will be detrimental to the public interest and the interest of investors or consumers;

(3) Whether the fees, commissions and expenses in connection with such proposed sale are fair and reasonable; and

(4) Whether the proposed sale is otherwise in accordance with the applicable provisions of said Act and is consistent with the carrying out by said respondents of the requirements of the aforesaid order of March 20, 1941, previously entered in these proceedings.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Recording Secretary.

[F. R. Doc. 41-6454; Filed, August 27, 1941; 11:40 a. m.]

[File No. 4-40]

IN THE MATTER OF NATURAL GAS PIPELINE COMPANY OF AMERICA AND CITIES SERVICE COMPANY

NOTICE AND ORDER FOR HEARING WITH RESPECT TO THE WITHDRAWAL OF EXEMPTION OTHERWISE AVAILABLE UNDER RULE U-3D-15 AS TO AN UNEXECUTED TRANSACTION AND NOTICE SUSPENDING THE APPLICABILITY OF SUCH EXEMPTION PENDING FINAL DETERMINATION OF SUCH MATTER

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 25th day of August, A. D. 1941.

I

Cities Service Company having filed a notification of registration as a holding company under the Public Utility Holding Company Act of 1935 on January 29, 1941; and

It appearing to the Commission that

(1) Cities Service Company is a corporation organized under the laws of the State of Delaware and maintains principal offices for the doing of business in the City of New York, State of New York.

(2) Natural Gas Pipeline Company of America is a subsidiary of Cities Service Company, engaged in the business of transportation of natural gas.

(3) Natural Gas Pipeline Company of America, as of July 25, 1941, had outstanding securities as follows (and the Commission has reason to believe that no substantial change in capitalization has since occurred):

First Mortgage and Collateral 6% Gold Bonds	$40,000,000
6% Debentures due 1946	6,000,000
Common Stock (no par)	1,500,000 shares

(4) Of the foregoing securities, Cities Service Company owned

Bonds	$11,445,000
Debentures	1,714,000
Common Stock	428,429.4378 shares

(5) Natural Gas Pipeline Company of America proposes and plans to issue and sell $30,000,000 of new First Mortgage and Collateral Trust Bonds. It is proposed to sell such bonds to others than the holders of its presently outstanding bonds and in order to give such indebtedness prior rights as to principal and interest, all holders of its presently outstanding bonds including Cities Service Company have been requested to and it is contemplated that such holders will, subordinate payment of principal and interest of the existing bonds and subordinate the mortgage lien thereto attaching.

(6) Natural Gas Pipeline Company of America is and was at the time Cities Service Company registered under the Act substantially engaged or interested in the transportation of natural gas, and the transactions contemplated by such proposed financing are or may be within the exemptions provided in Rule U-3D-15 promulgated under the Public Utility Holding Company Act of 1935.

II

The Commission having reason to believe that:

(7) No such proposed financing by Natural Gas Pipeline Company of America should be consummated until exempted by this Commission and it has been determined if terms and conditions should be imposed pursuant to section 6 (b) of the Act and that the subordination of the debt now held by Cities Service Company should be approved pursuant to sections 10 and 7 (e) of the Act.

(8) The withdrawal of any exemption pursuant to the provisions of Rule U-100 (b) as applied to such plan of financing would be appropriate in the public interest or the interest of investors or consumers.

It is therefore ordered, That a hearing pursuant to the provisions of Rule U-100 (b) be held on September 5, 1941, at 10:00 A. M. in the offices of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing room clerk in Room 1102 will advise as to the room where such hearings will be held.

It is further ordered, That Willis E. Monty or any other officer of the Com-

mission designated by it for that purpose will preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of the said Act and to a trial examiner under the Commission's Rules of Practice.

It is further ordered, That without limiting the scope of the issues presented by this Notice and Order for hearing, particular attention will be directed at the hearing to the following matters and questions:

(1) Whether the transactions proposed to be effected are within any exemptions provided by the Public Utility Holding Company Act of 1935 or any rule or regulation promulgated thereunder, particularly Rule U-3D-15.

(2) Whether any such exemption of the proposed transaction provided by any rule or regulation promulgated under the Act and particularly Rule U-3D-15 should be withdrawn.

Notice of such hearing is hereby given to Natural Gas Pipeline Company of America and Cities Service Company and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers.

It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before Sept. 2, 1941.

Further notice is hereby given to Natural Gas Pipeline Company of America and Cities Service Company, as provided in Rule U-100 (b), that if the proposed transaction is within any exemption provided in any rule or regulation promulgated under the Act, and particularly Rule U-3D-15, the applicability of such exemption to the proposed transaction is hereby suspended forthwith pending a final determination of whether any such exemption should be withdrawn.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Recording Secretary.

[F. R. Doc. 41-6455; Filed, August 27, 1941; 11:40 a. m.]

[File Nos. 34-9, 34-41, 70-28]

IN THE MATTER OF FEDERAL WATER SERVICE CORPORATION, UTILITY OPERATORS COMPANY, AND FEDERAL WATER AND GAS CORPORATION

ORDER RECONVENING HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 25th day of August, A. D. 1941.

William S. Fox, a holder of Class A Stock of Federal Water Service Corporation, having filed on August 22, 1941 a written request that the hearing herein be reconvened and it appearing that he desires to cross examine witnesses regarding matter received in evidence on August 12, 1941, to offer evidence and make certain contentions;

It appearing that the hearing herein was, on August 12, 1941, continued subject to call of the Trial Examiner;

It is ordered, That the hearing herein be reconvened on September 2, 1941, at 10:00 o'clock in the forenoon of that day, in Room 1102 of the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C.

It is further ordered, That at such hearing said William S. Fox have leave to cross examine witnesses with respect to any evidence received on August 12, 1941 and to offer evidence subject to ruling upon any question of competency, materiality or relevancy;

It is further ordered, That said William S. Fox have leave to file a brief in support of his contentions provided the same shall be filed on or before September 5, 1941.

Notice of such hearing is hereby given to the parties and to any other person affected by the proceeding whose participation may be in the public interest or for the protection of investors and consumers.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Recording Secretary.

[F. R. Doc. 41-6456, Filed, August 27, 1941; 11:40 a. m.]

IN THE MATTER OF COLUMBIA GAS & ELECTRIC CORPORATION, COLUMBIA OIL & GASOLINE CORPORATION, PANHANDLE EASTERN PIPE LINE COMPANY, MICHIGAN GAS TRANSMISSION CORPORATION AND INDIANA GAS DISTRIBUTION CORPORATION, RESPONDENTS

[File No. 70-263]

IN THE MATTER OF COLUMBIA GAS & ELECTRIC CORPORATION

[File No. 70-371]

IN THE MATTER OF COLUMBIA OIL & GASOLINE CORPORATION

[File No. 70-387]

IN THE MATTER OF PANHANDLE EASTERN PIPE LINE COMPANY

NOTICE OF AND ORDER INSTITUTING PROCEEDINGS AND SETTING DATE FOR HEARING; NOTICE OF AND ORDER RECONVENING HEARING; AND NOTICE OF AND ORDER OF CONSOLIDATION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 25th day of August, 1941 A. D.

The Commission having examined the hereinafter described applications and declarations filed by the above companies and also having examined the corporate structure of Columbia Gas & Electric Corporation, a registered holding company, particularly with respect to Columbia Oil & Gasoline Corporation, a subsidiary company thereof, Panhandle Eastern Pipe Line Company, a subsidiary company of both of the before-mentioned corporations, Michigan Gas Transmission Corporation and Indiana Gas Distribution Corporation, both wholly-owned subsidiary companies of Columbia Gas & Electric Corporation, the relationships among such companies, the character of the interests thereof and the properties owned or controlled thereby, makes from such examinations and the data contained in its official files and records the following allegations:

I

1. Columbia Gas & Electric Corporation, organized under and pursuant to the laws of Delaware, is a registered public utility holding company and a subsidiary company of The United Corporation, also a registered public utility holding company. It owns securities of 55 subsidiary companies, most of which are either gas or electric utility companies or natural gas production or pipe line companies. One of these subsidiary companies, Atlantic Seaboard Corporation, is also a registered holding company. Gas is distributed at retail for residential, commercial, municipal and industrial purposes in more than 1,200 communities located in Ohio, Pennsylvania, West Virginia, Kentucky, New York, Maryland, Virginia, and Indiana. In addition, gas is sold at wholesale to certain non-affiliated companies and municipalities. Electric energy is distributed at retail for residential, commercial, municipal and industrial purposes in over 400 communities in Ohio, Kentucky and Indiana. In addition, electric energy is sold at wholesale to certain non-affiliated companies and municipalities. One or more public utility services are rendered by the subsidiaries of Columbia Gas & Electric Corporation to a population estimated to exceed 5,000,000.

2. Columbia Oil & Gasoline Corporation, organized under and pursuant to the laws of Delaware, is a non-public utility holding company and a subsidiary company of Columbia Gas & Electric Corporation. It owns beneficially 100,000 shares, the entire outstanding issue, of $6 Cumulative Participating Class A Preferred Stock, 10,000 shares, the entire outstanding issue, of non-participating, non-redeemable Class B Preferred Stock and 404,326 shares, of 807,367 shares outstanding, of Common Stock of Panhandle Eastern Pipe Line Company. In addition, it owns the entire stock and indebtedness of:

(a) The Ohio Fuel Supply Company, a non-public utility company, organized under and pursuant to the laws of Ohio.

(b) The Preston Oil Company, a non-public utility company, organized under and pursuant to the laws of Ohio.

(c) Union Gasoline & Oil Corporation, a non-public utility company, organized under and pursuant to the laws of Pennsylvania.

(d) Virginian Gasoline & Oil Company, a non-public utility company, or-

ganized under and pursuant to the laws of West Virginia.

(e) Viking Distributing Company, a non-public utility company, organized under and pursuant to the laws of West Virginia.

3. Panhandle Eastern Pipe Line Company, organized under and pursuant to the laws of Delaware, is a non-public utility holding and operating company and a subsidiary company of both Columbia Gas & Electric Corporation and Columbia Oil & Gasoline Corporation. It owns a pipe line extending from the natural gas fields in Texas and Kansas to the Indiana-Illinois border, where it connects with the pipe line owned by Michigan Gas Transmission Corporation. It wholly owns Illinois Natural Gas Company, a non-public utility company, organized under and pursuant to the laws of Illinois, which sells natural gas, purchased only from Panhandle Eastern Pipe Line Company, to certain natural gas distributing and industrial customers in Illinois. Panhandle Eastern Pipe Line Company is engaged chiefly in transporting and selling natural gas at wholesale or to industrial customers, and its principal customer is the Michigan Consolidated Gas Company, serving the cities of Detroit and Ann Arbor, Michigan. Except for gas sale contracts with Michigan Gas Transmission Corporation, it and its wholly-owned subsidiary companies neither sell nor buy gas nor have any sales service or construction contracts with Columbia Gas & Electric Corporation or Columbia Oil & Gasoline Corporation or their other subsidiary companies.

4. Michigan Gas Transmission Corporation, a non-public utility company, organized under and pursuant to the laws of Delaware, is a wholly-owned subsidiary company of Columbia Gas & Electric Corporation. It owns and operates gas transmission facilities in Michigan, Ohio and Indiana. These facilities deliver natural gas from the transmission system of Panhandle Eastern Pipe Line Company to the transmission system of Michigan Consolidated Gas Company (formerly Detroit City Gas Company) for distribution in Detroit, Michigan. Its gas transmission facilities connect with the transmission system of, and it sells natural gas to, Indiana Gas Distribution Corporation. It also sells natural gas at wholesale. It purchases all of its natural gas requirements from Panhandle Eastern Pipe Line Company. Although its contract with Panhandle Eastern Pipe Line Company provides for the purchase of gas from other sources in the event that company is unable or unwilling to supply its requirements, it neither buys nor sells gas (except for a negligible quantity to The Ohio Fuel Gas Company) to Columbia Gas & Electric Corporation or Columbia Oil & Gasoline Corporation or their other subsidiary companies, except as herein stated.

5. Indiana Gas Distribution Corporation, a public utility company, organized under and pursuant to the laws of Indiana, is a wholly-owned subsidiary of Columbia Gas & Electric Corporation. It distributes natural gas purchased from Michigan Gas Transmission Corporation at retail to approximately 1,750 customers in central Indiana and also sells natural gas to one industrial customer. Its gas transmission facilities connect with the transmission system of, and it purchases all the gas it distributes from, Michigan Gas Transmission Corporation.

6. The non-utility business conducted by the subsidiary companies, described in allegations 3 and 4, are not such other businesses as are reasonably incidental or economically necessary or appropriate to the operations of any integrated public utility system or systems within the public utility holding company system of Columbia Gas & Electric Corporation.

7. The gas utility operations conducted by Indiana Gas Distribution Corporation are not a part of any integrated public utility system nor are the properties of such company retainable as an additional system to any single integrated public utility system within the public utility holding company system of Columbia Gas & Electric Corporation.

II

8. The consolidated capitalization of Columbia Oil & Gasoline Corporation and its subsidiary companies, excluding Panhandle Eastern Pipe Line Company, at December 31, 1940, was as follows:

Funded debt:	
20-year debentures, due Feb. 1, 1956 [1]	$21,000,000.00
Preferred stock:	
Non-cumulative participating preferred stock—no par, 400,000 shares	34,087,500.00
Common stock and surplus:	
Common stock—$1 par, 2,336,826 shares	2,336,826.00
Surplus	3,097,078.83
	5,433,904.83
	60,521,404.83

[1] By virtue of the provisions in the indenture relating to the sinking fund, on May 1, 1941, the outstanding debentures were reduced to $20,700,000 principal amount.

9. The indenture securing the debentures, dated February 1, 1936, provided that the interest rate should be 3% per annum until February 1, 1938, increasing annually thereafter on every February 1st, at the rate of 1% until February 1, 1940, when a rate of 6% was reached. It also provided that a sinking fund should be paid semi-annually beginning May 1, 1941 in the amount of $300,000 or such smaller sum as the directors shall determine, provided that such amount shall not be reduced below $300,000 if, *inter alia*, dividends have been declared or paid on the common stock within the last 12 months.

10. The preferred stock of Columbia Oil & Gasoline Corporation has a liquidating value of (a) $110 if voluntary and $100 if involuntary, plus (b) any unpaid preferential dividend for the current calendar year, plus (c) one-half of any assets remaining after the common stockholders have received $2,336,826 plus any additional consideration received from the issuance of additional common stock after December 31, 1935. The book value per share of preferred stock is $85.22.

11. The preferred stock of Columbia Oil & Gasoline Corporation is entitled to preferential but non-cumulative dividends at the rate of $1 per share in 1938 and increasing annually thereafter at the rate of 50¢ per share until 1946, when a $5 dividend is reached. In addition, in all dividends in excess of such preferential dividend, the preferred stock as a class is entitled to share equally with the common stock as a class.

12. Columbia Gas & Electric Corporation owns the entire issue of 20-year debentures due February 1, 1956 in the principal amount of $20,700,000 and the entire issue, consisting of 400,000 shares, of the noncumulative participating preferred stock of Columbia Oil & Gasoline Corporation.

13. As of the year 1939, 72.8% of the common stockholders of Columbia Oil & Gasoline Corporation were also common stockholders of Columbia Gas & Electric Corporation.

14. On all matters, other than the election of directors, each share of stock of Columbia Oil & Gasoline Corporation of whatever class has one vote.

15. The preferred stock of Columbia Oil & Gasoline Corporation has the right to elect the largest number of directors which constitutes a minority of the whole board.

16. The approval of the holders of at least two-thirds of the preferred stock of Columbia Oil & Gasoline Corporation is required before Columbia Oil & Gasoline Corporation can, *inter alia*, sell, lease or otherwise transfer all or the greater part of its assets.

17. On May 14, 1930, on the day of its organization, Columbia Oil & Gasoline Corporation issued to Columbia Gas & Electric Corporation all of its authorized preferred stocks, consisting of 337,500 shares of Cumulative $6 First Preferred par of $1 per share having a stated value of $100 per share and 337,500 shares of Cumulative $6 Second Preferred having a par and stated value $1 per share; and 2,340,655 shares of common stock, in consideration of the transfer of all the stocks and indebtedness of The Ohio Fuel Supply Company, The Preston Oil Company, Union Gasoline & Oil Corporation and Virginian Gasoline & Oil Company. (Viking Distributing Company was organized under the laws of West Virginia on July 22, 1931.)

18. Columbia Gas & Electric Corporation retained the aforementioned two issues of preferred stock and placed the shares of common stock in a voting trust.

19. On June 30, 1930, Columbia Gas & Electric Corporation distributed to its common stockholders of record on May 24, 1930, as a dividend, the voting trust certificates for Columbia Oil & Gasoline Corporation common stock in the ratio of one certificate representing one share

of common stock of Columbia Oil & Gasoline Corporation for each five shares of Columbia Gas & Electric Corporation common stock held.

20. On April 30, 1930, the stocks and indebtedness of the wholly-owned oil and gasoline subsidiary companies of Columbia Gas & Electric Corporation were carried in its investment account at $29,638,647.32, which reflected a write-up of at least $8,276,019 in the net property accounts of Virginian Gasoline & Oil Company and Union Gasoline & Oil Corporation, and Columbia Gas & Electric Corporation continued to carry such sum in its investment account after the receipt of the preferred and common stocks of Columbia Oil & Gasoline Corporation until the distribution of the voting trust certificates, when such sum was reduced by the amount of $1 to reflect such distribution.

21. On May 15, 1930, Columbia Oil & Gasoline Corporation appraised and recorded on its books the stocks and indebtedness of the oil and gasoline subsidiary companies it acquired at $35,638,647.32, which reflected an additional write-up of $6,000,000. The aggregate stated value of the two issues of preferred stock was $34,087,500. The stated value of the common stock was 39¢ per share and a surplus of $638,848 was created to be "available for dividends". On December 31, 1940 Columbia Oil & Gasoline Corporation still carried such stocks and indebtedness at the net book value of $34,979,113.

22. During the period from January 1, 1930 to May, 1936, the dividends on the preferred stocks of Columbia Oil & Gasoline Corporation paid aggregated $3,206,250, whereas the annual dividend requirement thereon was $4,050,000. As a result, as of May 31, 1936 there were accumulated unpaid dividends amounting to $22,106,250.

23. In May, 1936, Columbia Oil & Gasoline Corporation was recapitalized as set forth in allegations 8 to 11, both inclusive.

24. Upon such recapitalization, the two issues of $6 Cumulative Preferred stock of Columbia Oil & Gasoline Corporation and $22,106,250 accrued dividends thereon were exchanged for 400,000 shares of the presently outstanding non-cumulative participating preferred stock. The aggregate book value of the new preferred stock remained the same, namely, $34,087,500. The common stock, which had no par value, but a stated value of 39¢, was changed to $1 par value per share. As a result of such change, an appropriation of $1,424,326 from surplus was required.

25. At the time of such recapitalization, Columbia Oil & Gasoline Corporation, in order to repay Columbia Gas & Electric Corporation an indebtedness amounting to $34,124,723.99 and cash advances amounting to $3,342,000, issued to it $21,000,000 principal amount of debentures due February 1, 1956 and transferred assets in the amount of $16,466,571.75, and in addition, paid $152.24 in cash.

26. Since 1938, by reason of an impairment of capital, Columbia Oil & Gasoline Corporation has not declared or paid any dividends on its outstanding preferred stock.

27. As of December 31, 1940, Columbia Gas & Electric Corporation created a reserve for its investment in the preferred stock of Columbia Oil & Gasoline Corporation in the sum of $12,000,000 to provide for the estimated decline in value accrued prior to January 1, 1938 in such investment.

III

28. The capitalization of Panhandle Eastern Pipe Line Company as of May 31, 1941 was as follows:

Funded debt:	
1st mtge. and 1st lien bonds, series A, due serially Nov. 1, 1946–50	$6,250,000
1st mtge. and 1st lien 3% bonds, series B, due Nov. 1, 1960	12,000,000
Serial notes, due serially Nov. 1, 1942–45	5,000,000
Leasehold purchase obligations	18,971
	23,268,971
Preferred stock:	
Class A, par value $100 per share, 100,000 shares	10,000,000
Class B, par value $100 per share, 10,000 shares	1,000,000
	11,000,000
Common stock:	
Common stock, without par value, 807,367 shares	20,184,175
Earned surplus since Dec. 31, 1935	8,585,275
	28,769,450
	63,038,421

29. The indenture covering the funded debt of Panhandle Eastern Pipe Line Company, as set forth in allegation 28, contains a provision to the effect that if at any time 50% or more of the outstanding shares of all classes entitled to vote for the election of directors shall be held of record by one person, partnership or corporation, the company [Panhandle Eastern Pipe Line Company] shall not execute any such additional bonds (except bonds issued upon the basis of cash deposited, with the corporate trustee) without the formal approval, either in writing or at a meeting, of the stockholders of the company called for the purpose of considering such approval.

30. The preferred stocks of Panhandle Eastern Pipe Line Company of both classes have a par value of $100 per share and a liquidating value (whether voluntary or involuntary) of $110 per share and are entitled to preferential cumulative dividends of $6 per share.

31. The Class A preferred stock of Panhandle Eastern Pipe Line Company is entitled to receive as a class, in addition to the cumulative dividend of $6 a share, one-quarter of all the dividend distributions in excess of $1.50 per share on the common stock. It is redeemable upon not less than 30 nor more than 60 days' notice at $100 per share on or before October 1, 1941, after which date it is redeemable at $110 per share, but so long as owned by Columbia Oil & Gasoline Corporation, it is redeemable out of earnings at par at any time.

32. The Class B preferred stock of Panhandle Eastern Pipe Line Company is non-redeemable.

33. On all matters, other than the election of directors, each share of stock of Panhandle Eastern Pipe Line Company, of whatever class, has one vote per share. In the matter of directors, the Class B preferred stock has the right to elect two of the nine directors of Panhandle Eastern Pipe Line Company, and the other seven are elected by cumulative vote of the common stock.

34. All of the funded debt of Panhandle Eastern Pipe Line Company is held by banks, insurance companies or the general public.

35. Both issues of preferred stock and 404,326 shares (50.1%) of the outstanding common stock of Panhandle Eastern Pipe Line Company are owned by Columbia Oil & Gasoline Corporation and are held of record by Gano Dunn, Trustee, beneficially for Columbia Oil & Gasoline Corporation pursuant to a Consent Decree entered into in the District Court of Delaware in the matter of *United States* v. *Columbia Gas & Electric Corporation, Columbia Oil & Gasoline Corporation, et al.*, in Equity No. 1099.

36. 339,475 shares (42%) of the outstanding common stock of Panhandle Eastern Pipe Line Company are owned directly or beneficially by Missouri-Kansas Pipe Line Company, and 63,566 shares (7.9%) are owned by the general public, consisting of approximately 1,700 stockholders.

37. On or about September 17, 1930, Columbia Oil & Gasoline Corporation purchased one-half of the outstanding capital stock, and shortly thereafter the entire issue of the first mortgage bonds of Panhandle Eastern Pipe Line Company in the principal sum of $20,000,000, and paid for such securities with funds provided by Columbia Gas & Electric Corporation.

38. Early in 1931 Panhandle Eastern Pipe Line Company issued $9,891,000 principal amount of Junior 6% promissory notes due October 2, 1950, and increased its outstanding capital stock from 10,000 shares to 229,800 shares. Columbia Oil & Gasoline Corporation purchased one-half of the newly issued securities and paid for them with funds provided by Columbia Gas & Electric Corporation.

39. On March 26, 1931, while under the domination and control of Columbia Gas & Electric Corporation and Columbia Oil & Gasoline Corporation, Panhandle Eastern Pipe Line Company amended its first mortgage indenture, covering the $20,000,000 principal amount in bonds, owned by Columbia Oil & Gasoline Corporation, to include a provision that in the event of a default in the payment of interest on the Junior 6% Promissory

Notes, such default should constitute an event of default under the indenture.

40. On March 2, 1934, while under the domination and control of Columbia Gas & Electric Corporation and Columbia Oil & Gasoline Corporation, Panhandle Eastern Pipe Line Company defaulted on the interest due on its outstanding Junior 6% Promissory Notes and such default created a default under its indenture covering the aforesaid first mortgage bonds in the principal sum of $20,000,000 owned by Columbia Oil & Gasoline Corporation.

41. On or about January 31, 1936, while under the domination and control of Columbia Gas & Electric Corporation and Columbia Oil & Gasoline Corporation, Panhandle Eastern Pipe Line Company cured the default under its first mortgage indenture and the default in the payment of the interest on its Junior 6% Promissory Notes, increased the number of authorized shares of common stock, created a class of convertible cumulative preferred stock and provided for cumulative voting in the election of directors.

42. On or about June 5, 1936, while under the domination and control of Columbia Gas & Electric Corporation and Columbia Oil & Gasoline Corporation, Panhandle Eastern Pipe Line Company created the aforementioned Class A and Class B preferred stocks, which Columbia Oil & Gasoline Corporation now owns and holds as hereinbefore set forth.

43. Since 1938, Panhandle Eastern Pipe Line Company has received assurances from underwriters that a refunding of the Class A $6 participating preferred stock now held as aforesaid by Columbia Oil & Gasoline Corporation could be successful by issuing a new nonparticipating preferred at a lower dividend rate and without the redemption premium of $1,000,000, and Panhandle Eastern Pipe Line Company has been, and still is, ready, able and willing to do so.

44. Columbia Oil & Gasoline Corporation has refused and still refuses and has been unwilling to consent to and still is unwilling to consent to the refunding and redemption of such Class A preferred stock by Panhandle Eastern Pipe Line Company.

IV

45. On August 31, 1935, Panhandle Eastern Pipe Line Company entered into an agreement with Detroit City Gas Company (now Michigan Consolidated Gas Company) to supply gas to that company which provided that unless before February 1, 1936 Panhandle Eastern Pipe Line Company satisfied the Detroit City Gas Company that satisfactory financing had been arranged, not only for the construction of the extension necessary to transport the gas to be supplied to the City of Detroit, but also for additional construction to enlarge the capacity of its existing line, the Detroit City Gas Company was not bound.

46. On and before August 31, 1935, and between said date and February 1, 1936, Panhandle Eastern Pipe Line Company was in an insolvent financial condition, having defaulted on its payment of interest on its outstanding Junior 6% Promissory Notes and thereby being in default in the indenture covering its first mortgage bonds outstanding as hereinbefore set forth.

47. At the time the aforementioned agreement of August 31, 1935 was entered into, Columbia Gas & Electric Corporation and Columbia Oil & Gasoline Corporation, by reason of their control and domination of Panhandle Eastern Pipe Line Company, knew the financial condition of said company and consequently were aware that it was manifestly impracticable under such conditions for Panhandle Eastern Pipe Line Company to refund its defaulted obligations and finance the necessary capital expenditures except through Columbia Gas & Electric Corporation and Columbia Oil & Gasoline Corporation.

48. By reason of their domination and control, Columbia Gas & Electric Corporation and Columbia Oil & Gasoline Corporation were in a position to prevent Panhandle Eastern Pipe Line Company from financing and constructing the necessary addition to its pipe line to the city of Detroit.

49. With full knowledge of these conditions, Columbia Gas & Electric Corporation organized Michigan Gas Transmission Corporation as its wholly-owned subsidiary for the purpose of constructing that portion of the natural gas pipe line from the Indiana-Illinois border to the city of Detroit and acquired rights of way by its wholly-owned subsidiary companies with the intent and purpose of owning said extension.

50. On January 31, 1936, while Columbia Gas & Electric Corporation dominated and controlled Panhandle Eastern Pipe Line Company, both of these companies entered into an agreement wherein and whereby Columbia Gas & Electric Corporation agreed to build the extension from the Indiana-Illinois border to the city of Detroit.

51. In order to carry out its intent and purpose of owning the pipe line from the eastern terminus of the pipe line of Panhandle Eastern Pipe Line Company to the city of Detroit, Columbia Gas & Electric Corporation acquired from Columbia Oil & Gasoline Corporation, Indiana Gas Transmission Corporation, which owned a pipe line connected with the eastern terminus of the pipe line of Panhandle Eastern Pipe Line Company. On March 3, 1936, Indiana Gas Transmission Corporation was merged with Michigan Gas Transmission Corporation.

52. By reason of the domination and control of Panhandle Eastern Pipe Line Company, Columbia Gas & Electric Corporation never contemplated that Panhandle Eastern Pipe Line Company should be the owner of the extension to be built to effectuate the contract dated August 31, 1935, but it was the intent and purpose of Columbia Gas & Electric Corporation to own and control such extension through a wholly-owned subsidiary company.

53. By reason of the foregoing, Michigan Gas Transmission Corporation did construct said extension, with funds furnished by Columbia Gas & Electric Corporation and now owns the same.

V

The Commission, by notice and order dated May 20, 1941 (Holding Company Act Release No. 2766), ordered a hearing to be held on June 3, 1941 and designated James G. Ewell to preside as Trial Examiner at the hearing, on the application and amendment thereto, bearing File No. 70-263, filed by Columbia Gas & Electric Corporation pursuant to Sections 9 (a) and 10 of the Act, seeking approval of the Commission of the acquisition by it of all of the outstanding stocks and obligations of five wholly-owned subsidiary companies of Columbia Oil & Gasoline Corporation, namely, The Ohio Fuel Supply Company, The Preston Oil Company, Union Gasoline & Oil Corporation, Viking Distributing Company and Virginian Gasoline and Oil Company. Said hearing began on said day and was continued, at the request of Columbia Gas & Electric Corporation, from time to time, and on June 12, 1941 was continued subject to call of the Trial Examiner.

On July 31, 1941, Columbia Gas & Electric Corporation filed a second amendment to its aforesaid application, in which The Ohio Fuel Gas Company, a wholly-owned subsidiary company, joined in seeking approval of transactions embodied in a supplemental plan for the settlement of an Anti-trust Suit, entitled *United States* vs. *Columbia Gas & Electric Corporation, Columbia Oil & Gasoline Corporation, et al.*, In Equity No. 1099. In addition to the aforesaid acquisition, such amendment sets forth the following transactions and the applicable Sections of the Act and Rules promulgated thereunder designated by Columbia Gas & Electric Corporation:

(1) The surrender by Columbia Gas & Electric Corporation to Columbia Oil & Gasoline Corporation for cancellation and retirement of 400,000 shares of noncumulative participating preferred stock of the latter corporation. Section 12 (f) of the Act and Rule U-43 promulgated thereunder are designated as applicable thereto.

(2) The surrender by Columbia Gas & Electric Corporation to Columbia Oil & Gasoline Corporation for cancellation and retirement of $20,000,000 principal amount, 6%, 20-year Debentures of Columbia Oil & Gasoline Corporation due February 1, 1956. Section 12 (f) of the Act and Rule U-43 promulgated thereunder are designated as applicable thereto.

(3) The execution by Columbia Gas & Electric Corporation of an indemnity agreement to save Columbia Oil & Gasoline Corporation harmless from any liability which may arise under a suit instituted by John L. Davies in 1937, against Columbia Gas & Electric Corporation, Columbia Oil & Gasoline Corporation, The Preston Oil Company, and

others now pending in the Court of Common Pleas of Franklin County, Ohio. Section 12 (b) of the Act and Rule U-45 promulgated thereunder are designated as applicable thereto.

(4) The sale by Columbia Gas & Electric Corporation to Panhandle Eastern Pipe Line Company of the stock and indebtedness of Indiana Gas Distribution Corporation and Michigan Gas Transmission Corporation and the sale by The Ohio Fuel Gas Company of its gas pipe line in Indiana. The Ohio Fuel Gas Company joins in the application with respect to this sale. Section 12 (f) of the Act and Rule U-43 promulgated thereunder are designated as applicable thereto.

VI

Columbia Oil & Gasoline Corporation filed an application and amendment thereto, bearing File No. 70-371, seeking approval of the following transactions and designating sections 9 (a), 10, 12 (c), 12 (e) and 12 (f) of the Act and Rules U-42, U-43, U-46 and U-62 promulgated thereunder as applicable thereto:

(1) The acquisition by it from Columbia Gas & Electric Corporation of 400,000 shares of its entire issue outstanding of non-cumulative participating preferred stock.

(2) The sale by it to Columbia Gas & Electric Corporation of all the outstanding stocks and indebtedness of its five wholly-owned oil and gasoline subsidiary companies.

(3) The acquisition by it from Columbia Gas & Electric Corporation of its $20,700,000 principal amount of 6% 20-year Debentures due February 1, 1956.

(4) The disposition by it of 100,000 shares, par value of $10,000,000, of Class A participating preferred stock of Panhandle Eastern Pipe Line Company.

(5) The disposition by it of 10,000 shares, par value $1,000,000, call price $1,250,000, of Class B preferred stock of Panhandle Eastern Pipe Line Company.

(6) The acquistion by it from Panhandle Eastern Pipe Line Company by exercise of subscription rights at the subscription price of $25 per share of 1,285 shares of the common stock of Panhandle Eastern Pipe Line Company.

(7) The disposition by it of all or part of its holdings, including the beforementioned 1,285 shares of common stock of Panhandle Eastern Pipe Line Company, by issuance to its common stockholders of rights to subscribe to such common stock, or through the sale of all or part of such common stock, or otherwise.

(8) The disposition of its remaining assets, if any, to its common stockholders as a liquidating dividend.

VII

Panhandle Eastern Pipe Line Company filed an application, bearing File No. 70-387, seeking approval of the following transactions and designating the applicable Sections of the Act and Rules promulgated thereunder in connection therewith:

(1) The acquisition by it from Columbia Gas & Electric Corporation of the stock and indebtedness of Michigan Gas Transmission Corporation and of Indiana Gas Distribution Corporation. Sections 9 and 10 of the Act are designated as applicable thereto.

(2) The acquisition by it from The Ohio Fuel Gas Company of certain gas pipe lines in Indiana and Ohio. Sections 9 and 10 of the Act are designated as applicable thereto.

(3) The acquisition by it from Columbia Oil & Gasoline Corporation for retirement and redemption of all of the $10,000,000 aggregate par value of its Class A Preferred Stock at par and accrued unpaid dividends and all of the $1,000,000 aggregate par value of its Class A Preferred Stock at a call price of $1,250,000 and accrued unpaid dividends. Section 12 (c) of the Act and Rule U-42 promulgated thereunder are designated as applicable thereto.

(4) The issue and sale of new securities, the proceeds of which will be applied to pay the cost of the aforementioned acquisitions, the retirement and redemption of its preferred stocks and for other corporate purposes. (An amendment to the application relating to the new securities will be filed.) Sections 6 and 7 of the Act are designated as applicable thereto.

VIII

It appearing to the Commission that it is the declared policy of the Public Utility Holding Company Act of 1935 that all the provisions of the Act shall be interpreted to meet the problems and eliminate the evils as enumerated in Section 1 thereof and for the purpose of effectuating such policy to compel simplification of public utility holding company systems and the elimination therefrom of properties detrimental to the proper functioning of such systems; and

It further appearing to the Commission, in light of the foregoing, that it is appropriate and in the public interest and in the interests of investors and consumers to institute proceedings against Columbia Gas & Electric Corporation, Columbia Oil & Gasoline Corporation, Panhandle Eastern Pipe Line Company, Michigan Gas Transmission Corporation and Indiana Gas Distribution Corporation and each of them under sections 11 (b) (1), 11 (b) (2), 12 (c), 12 (f) and 15 (f) of the Public Utility Holding Company Act of 1935, in order to determine whether certain orders should be entered pursuant to the provisions of any of said Sections and Rules promulgated thereunder, all as hereafter set forth; and

It further appearing to the Commission that the matters here concerned are related and involve common questions of law and fact and that evidence offered in respect of each of the matters may have a bearing on the other; and that substantial savings in time, effort and expense will result if the hearings on said matters are consolidated so that they may be heard as one matter and so that evidence adduced in each matter may stand as evidence in the other for all purposes; and

It further appearing to the Commission that it is appropriate that the hearing "In the Matter of Columbia Gas & Electric Corporation, bearing File No. 70-263", which on June 12, 1941 was continued subject to call of the Trial Examiner, be consolidated with and reconvened at the time and place of the hearing herein as hereinafter set forth; and

It further appearing to the Commission that the determination of the questions heretofore and hereafter stated may make it appropriate or necessary to ascertain the profits received or to be received by Columbia Gas & Electric Corporation with respect to Michigan Gas Transmission Corporation and the amount of dividends received or to be received by Columbia Oil & Gasoline Corporation with respect to the Class A and Class B preferred stocks of Panhandle Eastern Pipe Line Company;

IX

It is hereby ordered, That the hearing "In the Matter of Columbia Gas & Electric Corporation, bearing File No. 70-263", which on June 12, 1941, was continued subject to the call of the Trial Examiner, be and it hereby is consolidated with and reconvened at the time and place of the consolidated hearing as hereinafter set forth; and

It is further ordered, That the proceedings here involved be consolidated for hearing and that a hearing on such matters under the applicable provisions of the Act and the Rules promulgated thereunder be held on September 16, 1941 at 10: 00 A. M. at the offices of the Securities and Exchange Commission, 1778 Pennsylvania Avenue, N. W., Washington, D. C. in such room as may be designated on such day by the hearing room clerk in Room 1102, at which hearing Columbia Gas & Electric Corporation, Columbia Oil & Gasoline Corporation, Panhandle Eastern Pipe Line Company, Michigan Gas Transmission Corporation and Indiana Gas Distribution Corporation and each of them show cause why the Commission should not enter an appropriate order or orders pursuant to sections 11 (b) (1), 11 (b) (2), 12 (c), 12 (f) and 15 (f) of the Act and pursuant to other appropriate and applicable Sections of the Act and Rules promulgated thereunder; and

It is further ordered, That Columbia Gas & Electric Corporation, Columbia Oil & Gasoline Corporation, Panhandle Eastern Pipe Line Company, Michigan Gas Transmission Corporation and Indiana Gas Distribution Corporation and each of them file with the Secretary of the Commission on or before September 8, 1941 their answers admitting or deny-

ing the allegations of Paragraphs 1–53 hereof, both inclusive; and

It is further ordered, That James G. Ewell or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matters. The officer so designated to preside at any such hearing is hereby authorized to exercise all the powers granted to the Commission under section 18 (c) of the Act and to a Trial Examiner under the Commission's Rules of Practice; and

It is further ordered, That the Secretary of the Commission shall serve notice of the hearing aforesaid by mailing a copy of this order, by registered mail, to Columbia Gas & Electric Corporation, Columbia Oil & Gasoline Corporation, Panhandle Eastern Pipe Line Company, Michigan Gas Transmission Corporation and Indiana Gas Distribution Corporation, Respondents herein; and that notice of said hearing be given by registered mail to Missouri-Kansas Pipe Line Company, Gano Dunn, Trustee, City of Detroit, Michigan, Public Utilities Commission of Ohio, Department of Justice, Anti-Trust Division, Kansas Corporation Commission and Federal Power Commission; and that notice of said hearing is hereby given to all security holders of the respondents herein and their subsidiary companies, to all consumers of said companies, to all states, municipalities, or political subdivisions of states and foreign countries in which are located any of the assets of the holding company system of Columbia Gas & Electric Corporation or under the laws of which any of such companies are incorporated, to all state commissions, state securities commissions and all agencies, authorities or instrumentalities of one or more states, municipalities, or other political subdivisions having jurisdiction over Columbia Gas & Electric Corporation or any subsidiary companies thereof or over any of the business affairs of any of them, and to all other persons, such notice to be given by a general release of the Commission, distributed to the Press and mailed to the mailing list for releases issued under the Act and by publication of this order in the FEDERAL REGISTER; and

It is further ordered, That any person desiring to be heard in connection with these proceedings shall file with the Secretary of the Commission on or before September 8, 1941 a written statement relative thereto; any person proposing to intervene shall file with the Secretary of the Commission on or before such date his application therefor, as provided by Rule XVII of the Commission's Rules of Practice; and

It is further ordered, That upon convening of the hearing above ordered, and in order to ensure effectuation of such final orders as the Commission may enter during the course of and following the termination of the hearing herein and in order to prevent payment to or receipt by Columbia Oil & Gasoline Corporation of dividends on the Class A and Class B preferred stocks of Panhandle Eastern Pipe Line Company, the Respondents herein shall show cause why the Commission shall not forthwith enter an order requiring Panhandle Eastern Pipe Line Company to deposit and retain the funds declared and payable as dividends on such stock in a special account, pending the outcome of the present proceedings and final determination by the Commission of the disposition to be made of such funds but in no way shall this order be deemed to prohibit or prevent the declaration of dividends by Panhandle Eastern Pipe Line Company on any of its outstanding stock or the payment thereof to any stockholder except as herein ordered; and

It is further ordered, In the interest of expeditious procedure that all evidence with respect to the Respondents herein contained in the records of the proceedings entitled "In the Matters of Panhandle Eastern Pipe Line Company, Files Nos. 31–109, 31–493, 31–108, Columbia Oil & Gasoline Corporation, Files Nos. 31–107, 31–106, Columbia Gas & Electric Corporation, Files Nos. 31–422, 31–423" and "In the Matter of Columbia Gas & Electric Corporation, File No. 70–263", so far as relevant to the issues herein stated, shall be incorporated in the record of the proceeding herein ordered and shall be regarded as evidence duly adduced in the present proceeding, subject to the same objections and exceptions preserved in the record of the proceeding in which first introduced; and such further objections and exceptions as may be made by any party in the within proceeding; and

It is further ordered, That if at any time it may appear conducive to an orderly and economic disposition of any matter consolidated for hearing herein that the right be and it hereby is reserved to order a separate hearing, to close the record or take action on such matter prior to closing the record on any other matter or proceeding herein; and

It is further ordered, That in addition to the issues presented by the application and amendment thereto bearing File No. 70–263, as set forth in Holding Company Release No. 2766, and without limiting the scope of the issues presented by the matters in this consolidated proceeding, particular attention will be directed at the within hearing to the following matters and questions:

(1) Whether the facts set forth in allegations Nos. 1 to 53, both inclusive, are true and accurate.

(2) Whether for the purpose of fairly and equitably distributing voting power among the security holders of Columbia Oil & Gasoline Corporation pursuant to section 11 (b) (2) of the Act it is necessary or appropriate to require that Columbia Oil & Gasoline Corporation shall revise and simplify its capital structure and take other steps to redistribute fairly and equitably voting power among its security holders.

(3) Whether for the purpose of fairly and equitably distributing voting power among the security holders of Panhandle Eastern Pipe Line Company pursuant to section 11 (b) (2) of the Act, it is necessary or appropriate to require that Panhandle Eastern Pipe Line Company shall revise and simplify its capital structure and take other steps to redistribute fairly and equitably voting power among its security holders.

(4) Whether it is necessary or appropriate in the public interest or for the protection of investors and consumers to require pursuant to section 15 (f) of the Act that Columbia Oil & Gasoline Corporation restate its plant, investment, surplus, capital and other accounts so as to segregate, dispose of and eliminate write-ups and intangibles and make other adjustments in compliance with the standards of the Act.

(5) Whether it is necessary or appropriate in the public interest and in the interest of investors and consumers to protect the financial integrity of Panhandle Eastern Pipe Line Company and to prevent the circumvention of the provisions of the Act or Rules and Regulations promulgated thereunder to enter an order pursuant to sections 12 (c) and 12 (f) of the Act to prohibit and restrict and to continue to prohibit and restrict the payment of dividends by Panhandle Eastern Pipe Line Company to and the receipt thereof by Columbia Oil & Gasoline Corporation, on the Class A and Class B preferred stocks of Panhandle Eastern Pipe Line Company.

(6) Whether it is necessary or appropriate in the public interest and in the interest of investors and consumers to prevent the circumvention of the provisions of the Act or Rules and Regulations promulgated thereunder and in accordance with the declared policy of the Act to meet the problems and eliminate the evils as enumerated in section 1 of the Act and for the purpose of the determination of the questions raised in this proceeding to ascertain the amount of dividends received or to be received by Columbia Oil & Gasoline Corporation with respect to the Class A and Class B preferred stocks of Panhandle Eastern Pipe Line Company.

(7) Whether it is necessary or appropriate in the public interest and in the interest of investors and consumers to prevent the circumvention of the provisions of the Act or Rules and Regulations promulgated thereunder and in accordance with the declared policy of the Act to meet the problems and eliminate the evils as enumerated in Section 1 of the Act and for the purpose of the determination of the questions raised in this proceeding to ascertain the amount of profits derived by Columbia Gas & Electric Corporation by reason of its ownership of Michigan Gas Transmission Corporation.

(8) Whether the transactions embodied in the applications and declarations and amendments thereto filed by Columbia Gas & Electric Corporation, Columbia Oil & Gasoline Corporation, and Panhandle Eastern Pipe Line Company, the hearing upon which has been consolidated with the hearing on the proceedings instituted by the Commission herein, meet the standards and provisions of the Sections and Rules promulgated thereunder applicable thereto.

(9) Generally, whether such transactions and other matters set herein are detrimental to the public interest or the interest of investors and consumers or will tend to circumvent the provisions of the Act or any rules, regulations or orders of the Commission thereunder; to the extent of any terms and conditions that may be appropriate to assure adequate protection of such interest and compliance with the provisions of the Act.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Recording Secretary.

[F. R. Doc. 41-6457; Filed, August 27, 1941; 11:41 a. m.]

[File No. 70-389]

IN THE MATTER OF AMERICAN & FOREIGN POWER COMPANY, INC., AND ELECTRIC BOND AND SHARE COMPANY

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of August, A. D. 1941.

Notice is hereby given that declarations or applications (or both) have been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above named parties; and

Notice is further given that any interested person may, not later than September 11, 1941 at 4:45 P. M., E. S. T., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declarations or applications, as filed or as amended, may become effective or may be granted, as provided in Rule U-23 of the Rules and Regulations promulgated pursuant to said Act or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said declarations or applications which are on file in the office of said Commission, for a statement of the transactions therein proposed, which are summarized below:

American & Foreign Power Company, Inc. ("American Foreign"), a registered holding company[1] and a subsidiary of Electric Bond and Share Company ("Bond and Share"), also a registered holding company, proposes to issue $15,500,000 of 3% Notes to be exchanged for a like unpaid principal amount of its presently outstanding notes held by certain banks and by Bond and Share. Bond and Share proposes to acquire such notes of American Foreign in the principal amount hereinafter set out.

The presently outstanding notes mature October 26, 1942, and bear interest at the rate of 3¾% to October 26, 1941 and thereafter until maturity at the rate of 4%. Such notes are held by a group of banks and by Bond and Share as indicated in the following schedule:

Holder	*Unpaid principal*
Bank of New York	$186,000
Bankers Trust Co	1,984,000
Central Hanover Bank & Trust Co	744,000
The First National Bank of New York	2,480,000
Chemical Bank & Trust Co	372,000
The First National Bank of Boston	744,000
Guaranty Trust Co. of New York	2,480,000
Irving Trust Co	744,000
The National City Bank of New York	2,480,000
The Union Trust Co. of Pittsburgh	186,000
Electric Bond and Share Co	3,100,000
	15,500,000

American Foreign proposes to issue to each of the above holders a series of five 3% Notes, maturing respectively in 1, 2, 3, 4, and 5 years. The aggregate principal amount of notes to be issued to each holder of the presently outstanding notes will be identical with the unpaid principal amount owing to each holder as set forth above.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-6458; Filed, August 27, 1941; 11:41 a. m.]

[File No. 59-12]

IN THE MATTER OF ELECTRIC BOND AND SHARE COMPANY, AMERICAN POWER & LIGHT COMPANY, PACIFIC POWER & LIGHT COMPANY, ELECTRIC POWER & LIGHT CORPORATION, UTAH POWER & LIGHT COMPANY, NATIONAL POWER & LIGHT COMPANY, AND EBASCO SERVICES INCORPORATED, RESPONDENTS

ORDER REQUIRING DISSOLUTION OF SUBHOLDING COMPANY

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 23d day of August, A. D. 1941.

The Commission having on May 9, 1940 issued its Notice of and Order for Hearing instituting this proceeding pursuant to section 11(b)(2) of the Public Utility Holding Company Act of 1935 and having issued supplementary orders dated June 7, 1940 and June 17, 1940; and

Hearings having been held on the above matter, and Counsel for the Respondents and for the Public Utilities Division of the Commission having stipulated that the record may be closed with respect to Respondent National Power & Light Company and with respect to Respondent Electric Bond and Share Company's interest therein, and that the Commission may proceed to enter its findings, opinion and order with respect to such matters; and

Counsel for the Respondents having waived any right to a trial examiner's report or to submit proposed findings of facts, oral argument or briefs with respect to the aforesaid matters; and

Commission having examined the record herein with respect to the aforesaid matters and having this day made and filed its findings and opinion therein, finding *inter alia* that the action hereinafter directed to be taken is necessary to ensure that the corporate structure and continued existence of Respondent National Power & Light Company shall not unduly or unnecessarily complicate the structure, or unfairly or inequitably distribute voting power among the security holders, of the holding-company system of Electric Bond and Share Company:

It is ordered, That the motion filed by Counsel for Respondents to dismiss the Commission's Notice of and Order for Hearing dated May 9, 1940 and supplementary order dated June 7, 1940, and to dismiss the within proceeding, be, and the same hereby is, denied with respect to National Power & Light Company and the interest of Electric Bond and Share Company in such company; and

It is further ordered, Pursuant to section 11 (b) (2) of the Public Utility Holding Company Act of 1935 that the existence of said National Power & Light Company shall be terminated and that said company be dissolved; and

It is further ordered, That said National Power & Light Company and Electric Bond and Share Company shall proceed with due diligence to submit to this Commission a plan or plans for the prompt dissolution of National pursuant to section 11 (b) (2) of the Act and shall take such further steps as may be necessary or appropriate to effectuate this order; and

It is further ordered, That jurisdiction be, and the same hereby is, reserved to enter such further orders as may be necessary or appropriate for the purpose of ensuring that dissolution of National Power & Light Company is accomplished in a manner consistent with the public interest and with the provisions of the Act.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-6459; Filed, August 27, 1941; 11:41 a. m.]

[1] By order dated December 20, 1939, Release No. 1847, the Commission exempted American Foreign from certain sections of the Public Utility Holding Company Act of 1935, the exemption being limited only to the extent set forth in that order.

[File No. 70-364]

IN THE MATTER OF WISCONSIN POWER AND LIGHT COMPANY

SUPPLEMENTAL ORDER

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 26th day of August, A. D. 1941.

The Commission having made findings and entered an order herein on August 15, 1941, granting an amended application filed by Wisconsin Power and Light Company, pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 and Rules U-23 and U-50 thereunder, regarding the issue and sale of $30,000,000 principal amount of its First Mortgage Bonds, Series A, 3¼%, due August 1, 1971, and $3,000,000 principal amount of 2¼%, 2¾% and 3% unsecured notes, and the redemption of $33,000,000 principal amount of its outstanding First Mortgage Bonds, Series A, 4%, due June 1, 1966, funds for such redemption being provided by the issue and sale of the securities above described together with other funds of the applicant to the extent required; the applicant to publicly invite proposals for the purchase of the bonds in accordance with the Commission's Rule U-50; and

The Commission having granted such application subject to the terms and conditions prescribed by Rule U-24 and to the condition that the applicant report to the Commission the results of the competitive bidding as required by Rule U-50 (c), and comply with such supplemental orders as the Commission may enter in view of the facts disclosed thereby;

The applicant having made such report to the Commission in the form of a further amendment to the application herein, specifying the proposals which had been received for the purchase of said bonds pursuant to the invitation of competitive bids therefor, and stating that applicant had accepted a bid from a group of nineteen underwriters headed by Glore, Forgan & Co. and Halsey, Stuart & Co. Inc., of 105.5897%, plus accrued interest from August 1, 1941, to the date of delivery, for said bonds, the same to be resold to the public at 106.875%, representing a spread to the underwriters of 1.2853%.

The Commission having examined the record and finding that the plan for the sale of said bonds at such prices and with such spread is fair and equitable to the persons affected thereby, and making no adverse findings under said Act;

It is ordered, That said application as amended, be, and it is hereby granted in regard to the price to the issuer, spread and distribution thereof, applicable to said bonds, subject however to the terms and conditions prescribed in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Recording Secretary.

[F. R. Doc. 41-6460; Filed, August 27, 1941; 11:41 a. m.]